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Current Topics.

Further Legal Reforms.

AT THE Lord Mayor's dinner on 15th July to meet His Majesty's judges the Lord Chancellor announced that further reforms in the direction of speedy and cheap litigation were in contemplation. One of the projected reforms, as to the desirability of which there has been a great measure of unanimity, is the abolition of the multiplicity of opportunities of appealing. Something has already been achieved in this direction by the New Procedure Rules, Ord. XXXVIIIA, r. 8 (2) (*k*), of which provides that the judge may in his discretion record any consent of the parties either wholly excluding their right of appeal or limiting it to questions of law only. Recent events have made it clear that something further is wanted to remove this imposition on the poorer litigant, and to destroy the uneasy impression which the conflicting judgments in recent cases like *Lever* v. *Bell and Another* [1932] A.C. 161, and *Banco du Portugal* v. *Waterlow*, 76 SOL. J., 327, have left in the popular mind. The present unsatisfactory nature of proceedings against the Crown is another matter which is to have immediate attention, and it is pleasing to note that a Bill to remedy this is ready. It is to be hoped that the departmental difficulties which are at present impeding its progress into law will soon be overcome. The circuit system and the question of the Long Vacation are also to receive consideration. The Lord Mayor said that he gladly recognised in the Lord High Chancellor a man who was helping to do much to expedite the hearing of causes. With that view the legal profession will be glad to associate itself.

The Irish Official Secret.

THE WORKING of the Official Secrets Acts, though they embody necessary legislation, need careful watching, for they are capable of misuse, such as the concealment of the blunders of officials from taxpayers whose servants they are. However, the recent episode of the correspondence between Mr. DE VALERA and Mr. MCNEILL, the Governor-General of the Irish Free State, appears of a nature more to cause mild diversion than alarm to persons outside Ireland. Mr. MCNEILL proposed to publish certain official letters which had passed between him and Mr. DE VALERA. The latter objected and "conveyed to your Excellency the formal advice and direction of the Executive Council not to publish the letters." Mr. MCNEILL disregarded this formal advice and direction, but the Southern Irish newspapers to whom he sent the correspondence were informed that the Executive Council had, by order, declared the letters to be confidential State documents, and prohibited their publication. They nevertheless appeared in all the newspapers of England and Northern Ireland, and the veto was then raised. The handling of the matter by Mr. DE VALERA and his legal advisers does not indicate that they were very sure of their ground, but that is scarcely surprising, for the situation had some decided elements of novelty. The Irish Free State Agreement Act, 1922, provided by its schedule that the Free State should have the same constitutional status and position as Canada. By s. 10 of the British North America Act, 1867, the Governor-General of Canada was defined as the chief executive officer or administrator, carrying on the Government of Canada on behalf or in the name of the Queen. No doubt he could be advised by his Prime Minister, but he would not, in theory, be bound by such advice, and still less to obey a direction of, in theory again, his own Executive Council. In Canada, where these officials work in harmony, the point is academic, so Southern Ireland will have to settle her own precedents. Our Official Secrets Acts of 1911 and 1920 have no machinery for an Order in Council declaring a particular document to be confidential, but *R.* v. *Crisp & Homewood* (1919), 83 J.P. 121, indicates that, under our 1911 Act, any official document may be within it, if communicated to an unauthorised person. One safeguard against the misuse of the Acts is that they are apt to bring ridicule on those who mishandle them. The communication of harmless information, derived from official knowledge, may, perhaps, be likened to legal gossip about affairs in chambers, dealt with in the dissentient judgment of MOULTON, L.J., in *Scott* v. *Scott* [1912] P. 241 (see p. 271), his view being confirmed by the House of Lords [1913] A.C. 417.

Maintenance Orders and a Wife's Adultery.

IN A note, 72 SOL. J. 650, "A Miscarriage of Justice," we criticised a decision of magistrates in granting a maintenance order to a wife who had lived in adultery for ten years, and then applied for the order directly after six months had elapsed from her lover's death. They apparently considered themselves bound to do so by *Waller* v. *Waller* [1927] P. 154. For the reasons we then gave we did not consider that *Waller* v. *Waller* applied in the circumstances, but we added that it was a case of great hardship, and worth the attention of the legislature. It is some satisfaction to know, therefore, that it has been overruled by the Court of Appeal in *Natborny* v. *Natborny* (76 SOL. J. 416). In *Waller* v. *Waller* it was laid down by a Divisional Divorce Court, MERRIVALE, P., and HILL, J., that an application by a husband to discharge a maintenance order under s. 7 of the Summary Jurisdiction (Married Women) Act, 1895, was, by reason of s. 8, subject to the rule embodied in s. 11 of the Summary Jurisdiction Act, 1848, and therefore failed if the wife could contrive to

conceal her adultery from her husband for six months. In *Natborny* v. *Natborny* it is definitely laid down that s. 7 is not impliedly subject to the rule, and that a husband can have a maintenance order discharged whenever he can prove his wife's adultery. The Master of the Rolls observed that so far as *Waller* v. *Waller* ruled to the contrary, he did not accept its conclusions, but when that ruling is carved away from *Waller* v. *Waller* practically nothing else remains. In effect, the Court of Appeal has implied the "*dum casta*" condition to all statutory maintenance orders. The Divorce Court, however, with true Victorian chivalry, still deems that a *dum casta* clause is an insult to a pure woman, so may require a husband to support his late wife in relief of any after-taken lover with whom she may choose to live. Our comments as to the continuation of a maintenance order after divorce and a wife's subsequent re-marriage will be found, 73 SOL. J. 547, and 74 SOL. J. 97. The effect of a permanent maintenance order in divorce without the "*dum sola*" clause is to require one man to maintain another's wife, which *primâ facie* appears a legitimate grievance to the former. However, the nineteenth century was so anxious to redress the hardship to wives of the eighteenth that one may expect the married woman to "have it both ways" as often as the law can give it to her.

Inspectors' Reports.

DURING THE debate on the Committee Stage of the Town and Country Planning Bill in the House of Lords an amendment was moved to provide that the report of the inspector holding a local inquiry should be open to the inspection of any person represented at the inquiry. The Committee on Ministers' Powers recommended that this principle be followed where either judicial or quasi-judicial functions are exercised by Ministers. It is interesting to note that Lord HANWORTH opposed the amendment on the ground that the Minister should get a report that was fearless and confidential. Experience before numerous inspectors, however, makes it difficult to believe that the report would not be equally fearless and truthful if it were open to inspection by parties who had appeared at the inquiry. The Lord Chancellor pointed out that in this case the inspectors' functions were neither judicial nor quasi-judicial. There is no doubt that the report deals largely with questions of fact and the expediency of the proposed scheme in the light of these facts, and that the Minister's decision on the report is administrative action, the character of which is determined by the Minister's free choice. Nevertheless, the parties to the dispute are entitled to present their case at the inquiry and facts have to be ascertained by means of evidence adduced at the inquiry. It is submitted, therefore, that the inspector's functions are quasi-judicial within the sense of that term as defined in the Committee's report (see p. 73 thereof), and in the sense of that term as now accepted by the courts. The Lord Chancellor intimated, however, that the whole question of the departmental practice in regard to inspectors' reports was going to be "thoroughly overhauled." Their lordships proceeded to a division, but there was no second teller for the amendment, which was accordingly negatived.

Local Authority and Unlighted Esplanade.

A BOLD attempt to impose liability upon a local authority for injury caused through an esplanade being unlighted was made in the recent Scottish case of *Bolton* v. *Gourock Magistrates* (1932), S.C. 239. The defendants were the owners of an esplanade at the popular Clyde resort of Gourock on which, or closely adjacent to which, were a number of seats placed for the convenience of the public. About 8 p.m. on the evening of 21st December, 1930, when therefore it was dark, the plaintiff was walking along the esplanade accompanying some friends; he stopped for a moment to light a cigarette and thereafter, while hurrying to catch up to his companions, he collided with one of the seats and was injured. In his condescendence, which is the Scottish equivalent of our statement of claim, he alleged that "in depositing the seat, which was their property, on the footway or promenade set apart for pedestrian traffic, the defendants created a source of danger not apparent to anyone walking on the promenade after dark . . . The defendants or their servants knew, or ought to have known, that after dark the seat was, in its position, dangerous, and, in leaving it unlit after dark, the defendants were guilty of negligence. There was no light to show pedestrians using the esplanade the position of the seat in question." On this pleading the question was whether the plaintiff had averred a relevant case to be submitted to a jury, for it may be worth mentioning that in Scotland a procedure practically equivalent to our old demurrer still obtains and appears to work very efficiently in practice. In considering the legal position involved, the LORD JUSTICE-CLERK pointed out that the local authority's duty to a member of the public was plainly not one of insurance against danger; their duty was to administer their property in the same way as other local authorities were accustomed to do, and apparently it was not alleged that other local authorities always had promenades under their supervision lit up at night. What then was the duty of the local authority to those, including the plaintiff, who was merely a licensee, using the esplanade at night when it was not lighted? The apt words of HAMILTON, L.J., in *Latham* v. *R. Johnson & Nephew* [1913] 1 K.B. 398, 411, were quoted by the LORD JUSTICE-CLERK with approval and as exactly covering the facts of the case before him. "The rule as to licensees," said HAMILTON, L.J., "is that they must take the premises as they find them apart from concealed sources of danger; where dangers are obvious they run the risk of them. In darkness where they cannot see whether there is danger or not, if they will walk they walk at their peril." This passage indeed disposed of the case against the plaintiff for, as the judges proceeded to add, the seat which was the occasion of the plaintiff's injury was in no sense a "trap," indeed, as one of them said, to suggest that it was appeared to be "unreasonable, extravagant and, I had almost added, absurd."

Patronage Trusts and Clergy Pensions.

THE Bishop of Durham's recent onslaught on patronage trusts is likely to have a very far-reaching effect at a time when the Church Assembly is considering this subject and public opinion generally is opposed to the idea of ecclesiastical livings being tied either to individual patrons or to groups of individuals who are intent upon forcing on the parishioners any particular form of ceremonial. "No continuance of a system," says Dr. HENSLEY HENSON, "can be justified if its results are bad"; and in the Right Reverend Prelate's view "the type of churchmanship which these party trusts are engaged in forcing on parishes is obsolescent." The essential wrongfulness of purchasing advowsons has been admitted by representative men belonging to all sections of feeling in the Church; and the most practical method of ending the existing state of affairs would appear to lie in the creation of more diocesan patronage boards upon a sufficiently elective basis to ensure that no one party shall obtain any dominating influence, but that all sections of opinion shall be fully and fairly represented, so that there can be no complaint that any section of church-goers are likely to be deprived of the spiritual guidance they particularly desire. Another matter occupying the attention of the Church Assembly is that of completing the long drawn-out scheme for providing adequate pensions for the clergy by enlarging what has already been done so as to cover not only the clergy themselves, but also their widows and orphan children. The House of Clergy has already passed a resolution to the effect that such a scheme should be compulsory for future ordinands, married and unmarried alike, but optional for present clergy.

Insuring Unemployed Vessels.

THE present unprecedented depression in the shipping industry has been directly responsible for raising an apparently hitherto unconsidered point under a policy of marine insurance—a point of much interest and importance to both underwriters and average adjusters. In the recent case of the *Portvale Steamship Co. Ltd.* v. *The Corporation of The Royal Exchange Assurance* (76 SOL. J. 415), heard by Mr. Justice MACKINNON, the plaintiffs, the owners of the steamship *Portvale*, claimed from the defendants £17 4s. 10d. under a policy of marine insurance for one year commencing on 30th July, 1930. The policy incorporated the Institute Time Clauses, 1923, cl. 13 of which provided that the underwriters were "Warranted free from particular average under 3 per cent." Clause 16, on the interpretation of which the whole matter turned, said that "The warranty and conditions as to average under 3 per cent. to be applicable to each voyage as if separately insured and a voyage shall be deemed to commence at one of the following periods to be selected by the assured when making up the claim, viz., at any time at which the vessel (1) begins to load cargo, or (2) sails in ballast to a loading port. Such voyage shall be deemed to continue during the ensuing period until either she has made one outward and one homeward passage (including an intermediate ballast passage if made) or has carried and discharged two cargoes whichever may first happen, and further, in either case, until she begins to load a subsequent cargo or sails in ballast for a loading port."

In the events which happened there was no dispute that the voyage of the *Portvale* commenced on 10th January, 1931, when she sailed in ballast from Pernambuco to load in the River Plate for Antwerp. Before she eventually arrived at Antwerp, however, she sustained damage on three separate occasions. After discharging her cargo, which was completed on 9th April, 1931, the *Portvale* was placed in a lay-up berth at Antwerp, no further employment for her then offering, although every attempt was made to secure it, and she in fact remained laid up until 27th August, 1931—nearly five months—when she then sailed in ballast for Hamburg, where she subsequently loaded a cargo for the Kara Sea. While she had been lying up at Antwerp she suffered further damage on two occasions, once when another vessel ran into her, and again when she struck the quay walls on leaving dry dock. The cost of the repairs in respect of the three sets of damage sustained *before* the vessel reached Antwerp was such that under the particular average 3 per cent. franchise clause the underwriters would have escaped liability, but if the cost of the repairs on account of the two sets of damage suffered when the vessel was lying up awaiting a cargo were added, then the 3 per cent. would be exceeded and the underwriters would not be protected by the franchise clause. The whole point for consideration was whether during the period when the *Portvale* was lying up at Antwerp the voyage, which began at Pernambuco, could still be deemed to be continuing within the meaning of cl. 16 (*supra*).

Mr. Justice MACKINNON held that on the actual words of the clause, and under the artificial definition of a "voyage" defined therein, there could be no doubt, although such a decision might work some hardship, that the voyage must be deemed to have been still continuing during the period she was awaiting employment. "A thing is 'deemed to be' something," added his lordship, "when it is not really that something, but you have got to pretend that it is. Everybody knows that the vessel is not really on a voyage when she is laid up, but when it is said that she is 'deemed to be' on a voyage, then you have got to say that she is." In reply to that, counsel for the defendants suggested that the crux of the whole matter was the word "continue," and that the clause said that "such voyage shall be deemed to continue . . ." The main line of the defendants' argument was that the clause simply defined a "voyage," which ordinarily would be considered a round voyage out and home, and that if a ship performed one passage and then laid up for a long time, and then undertook another engagement, it was impossible to regard all that as one voyage within the contemplation of the clause construed as a business proposition. The long period of delay involved a different risk from what the underwriters contemplated or could reasonably be held to have contemplated. If the clause were not incorporated in the policy, counsel pointed out, then the old cases would apply relating to time policies, and the court would simply have to construe the policy on the footing of a voyage. (He referred to *Stewart & Co.* v. *Merchants Marine Insurance Co. Ltd.*, 16 Q.B.D. 619.) He agreed that there must be some period which was permissible under the clause between the end of one voyage and the beginning of another, which, in turn, would raise the different question of degree of what was a reasonable period.

In conclusion, it is worthy of note that cl. 16 of the Institute Time Clauses for 1923 is still in precisely the same terms as the clause dealing with the same matter in the Institute Time Clauses of 1908. It seems highly improbable, therefore, that the point which has arisen in the present case has given difficulty before, for had that been so one might reasonably expect that some alteration, addition or qualification would have been made to the clause to meet such an eventuality as this case discloses.

Protection of Police Authorities.

How far police authorities are protected by the Public Authorities' Protection Act, 1893, when they have converted property in their possession by delivering it to persons wrongly claiming it was recently dealt with by Mr. Justice DU PARCQ in a reserved judgment in *Betts* v. *Receiver for the Metropolitan Police District and Carter Paterson & Co., Ltd.* (*The Times*, 7th June). The plaintiff had completed a sentence of five years' penal servitude awarded in February, 1925, for receiving a quantity of jewellery. On his trial he had also been charged with stealing and receiving a quantity of cloth, which the police had found at his house and which they had confiscated. No evidence had been offered in respect of that charge, but it remained on the record. The police handed over the cloth to the second defendant on 2nd April, 1925. The claim was for damages for detinue and conversion, and the defence of both defendants was that the goods in question were stolen from Carter Paterson & Co., Ltd., between August, 1919, and March, 1920. The Receiver for the Metropolitan Police District also pleaded that he was entitled to the protection of the Public Authorities Protection Act, 1893. The jury found for the plaintiff and awarded him £150 damages, subject to the question of the liability of the Receiver for the Metropolitan Police District. Section 1 of the Public Authorities Protection Act, 1893, provides that "where . . . any action . . . is commenced . . . against any person for any act done in pursuance or execution or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty or authority . . . (*a*) The action . . . shall not lie . . . unless it is commenced within six months next after the act, neglect or default complained of." The only question, his lordship stated, was, whether the police had acted in "intended execution" of a "public duty," and he was satisfied that the police officials concerned not only had no belief in the validity of the plaintiff's claim to the goods, but did not believe in 1925 that he intended to make a claim. The mistake was therefore not as to the legal obligations of the police, but was one of fact, and the words "intended execution" were satisfied. His lordship also decided that an officer of the police force was performing a public duty when handing over to their true owner goods of

which he had become possessed in the course of performing his duties to the public. The burden of performing it fell on the police only and " was founded on their public position " : *per* Lord SHAW OF DUNFERMLINE in *Bradford Corporation* v. *Myers* [1916] A.C. 262. Judgment was therefore entered for the Receiver for the Metropolitan Police District and against Carter Paterson & Co., Ltd. His lordship followed the decision of Mr. Justice AVORY in *Hartin* v. *L.C.C.*, 45 T.L.R. 318, an action for malicious prosecution, in which the learned judge said that a public duty " meant a duty which could be legally enforced," and held under the circumstances of the case that Carter Paterson & Co., Ltd., could have enforced against the police the duty of handing over the property. This can only apply, however, where there are no conflicting claims and the only claim is a sound one, and the police could not be protected under any other circumstances. The proper course for the police to adopt where there are conflicting claims is to apply to a court of summary jurisdiction under s. 1 of the Police (Property) Act, 1897, for an order for the delivery of the property to the person appearing to the court to be the owner thereof.

Highway Obstructions and their Removal.

THE subject of highway obstructions and their removal has given rise for many years to a great variety of actions, and it would be impossible in the course of a single article to do justice to all the various difficulties that can arise under this heading. We may, however, note the provisions of two sections of the Highway Act, 1835, which deal with two of the many aspects of the matter, viz., ss. 26 and 72. Section 26 directs a local surveyor to cause snow and other obstructions brought about by weather conditions to be removed. It reads as follows :—

> " If any impediment or obstruction shall arise in any highways from accumulation of snow, or from the falling down of the banks on the side of such highways, or from any other cause, the surveyor is required from time to time, and within twenty-four hours after notice thereof from any justice of the peace of the county in which the parish may be situate, to cause the same to be removed."

Failure to act upon this will involve the surveyor in a breach of s. 20, which imposes on him a penalty of £5 for every neglect of duty. What precisely is meant by " cause to be removed " seems at first sight a little doubtful. Is he to remove it himself, or is he to call upon some other person to get it removed within a specified time ? Obviously, in the case of snow which does not belong to any individual person it will be the duty of the surveyor to get it removed by the employees of the local authority for whom he acts ; but with regard to the falling down of the banks on the side of a highway or anything of a similar nature in which an adjoining owner or occupier may be interested, other considerations apply. If we look at s. 72 of the Act we find it laid down there that :—

> " If any person shall . . . in any way wilfully obstruct the free passage of any highway, every person so offending . . . shall for every such offence forfeit and pay any sum not exceeding 40s. over and above the damage occasioned thereby."

What then is the duty of a surveyor when a fall of earth from a bank by the side of the road occurs, causing an obstruction, bearing in mind that the earth which has fallen is the property of the landowner adjoining ? Is it the business of the surveyor to remove it forthwith by the agency of his own men as in the case of snow or is he to give notice to the person to whom it belongs to move it ? And if that person does not remove it what is the duty of the surveyor ? It will be observed that under s. 26 a surveyor is to act within twenty-four hours after he has received a notice from a justice of the peace directing his attention to the existence of the obstruction. Until, therefore, such a notice is served upon him it would appear that the surveyor is under no liability of being mulct in a penalty. He will, therefore, have ample time to act under s. 72 by requiring the owner of the fallen bank to get it removed. Then if the owner fails to do so, the surveyor will be in a position to act himself and will be justified in removing the fallen material and if necessary may take proceedings against the owner for " wilfully " obstructing the passage by neglect to remove his property. The surveyor, in so doing, acts upon the authority of s. 73, which provides that matters laid on or near a highway so as to be a nuisance are to be removed by their owner on notice and that on failure to do so the surveyor is to remove and to dispose of the same.

What then amounts to " wilfully " in this connexion ? This was very clearly dealt with in *Gully* v. *Smith* (1883), 12 Q.B.D. 121. The facts there were that the appellant GULLY was tenant of land bounded by a highway which passed through a cutting, the soil of which was kept up by a retaining wall. During winter time, in consequence of exceptional wet weather, the bank of the cutting gave way and several loads of stone and soil fell on to the highway, carrying the wall with it and causing a dangerous obstruction. The respondent (highway surveyor) gave GULLY notice to remove the obstruction, but he failed to do so, and was summoned and convicted of *wilfully obstructing* the highway. Against this conviction he appealed, but the Divisional Court held that GULLY had been properly convicted because the wall was shown to belong to him and it was his duty to remove his property that was causing the highway to be obstructed. Lord COLERIDGE, C.J., in delivering judgment, said :—

> " It appears to me that directly it is stated that *the wall and the soil which the wall upheld* are the property of the appellant . . . and when it is shown that *the wall and soil*, having fallen across the highway, the appellant was required to remove that which belonged to him and obstructed the highway, then there was that which was wilful on his part in leaving them there."

Presumably in this case the wall as well as the soil was admitted to be the property of the appellant. That is not always the case—there are many walls to be found in that position which form part of the highway and have been erected by and belong to the local authority. It is easy to imagine a case in which the effect of wet weather would be to bring down a wall belonging to the local authority with a quantity of soil belonging to the adjoining owner. Nice questions might then arise which would have to be amicably settled. The position, however, arising out of *Gully* v. *Smith* is quite clear. If a man's property falls upon and obstructs the highway he may be called upon to remove it, and if he does not do so within a reasonable time so as to free the highway from obstruction the local surveyor may have it removed and not only charge him with the cost of so doing but also prosecute him for wilful obstruction of the highway under s. 72.

Company Law and Practice.

CXXXIX.

OSTENSIBLE AUTHORITY OF DIRECTORS.

IT is usual among practising lawyers to think of the Law Reports as, if one may be pardoned for saying so, law reports —occasionally, however, in addition to their official task of supplying us with full and accurate reports of decisions in the various courts, those responsible for their production are good enough to add a discreet footnote for our enlightenment in some particular direction. Part I of the second volume of King's Bench Reports for 1932 breaks with tradition and gives us, as a note, a general statement of the law with regard to actions against limited companies where the plaintiff relies

upon an act of an officer of the company. This note is the product of a diligent and careful survey of the authorities which bear on the question, and, though one may perhaps feel some doubt as to whether the official law reports should do anything more than officially report law, there can be no doubt in the present case of the utility of the note, and I would recommend all those interested in the question to which the note refers to turn to [1932] 2 K.B. 183, 184, and study it with close attention.

Then, when they have read the note, they may turn to the report of the case which gives rise to it—*British Thomson-Houston Company Ltd.* v. *Federated European Bank Ltd.* [1932] 2 K.B. 176, which was an action on a guarantee given, or alleged to have been given, by the defendant bank. The guarantee was given to the plaintiff company to cover the price of goods supplied, or to be supplied, by the plaintiff company to a third party, and its concluding words were: "The Federated European Bank Limd. (Signed) N. Pal." Mr. PAL was in fact the chairman of the board of directors of the bank. The plaintiff company subsequently brought an action for £80 due under this guarantee, and were met with the defence that the bank was not bound by the guarantee, as any guarantee by it had to be executed by two directors. One of the really curious features of the case is that it was tried in the court of first instance, and judgment given there, without the production of the articles of association of the bank—this was remedied in the Court of Appeal, and it appeared that the articles contained a provision fixing the quorum of directors at two. The articles appear to have been in a very full form, and Article 106 evidently set out at considerable length the powers of the directors, the only material powers for this present purpose being (*a*) a power to delegate to any managing director or to one or more of their own body such of the powers and authorities thereby conferred on the directors (except as therein mentioned) as they might consider requisite for carrying on the business of the company, and (*b*) a power to determine who should be entitled to sign on the company's behalf bills, notes and documents.

It is interesting to note that, before the guarantee was given in the form to which I have referred above, a guarantee was sent to the plaintiff company signed by Mr. PAL, for and on behalf of the bank, as chairman, but this form was not acceptable to the plaintiff company; it required the guarantee to be signed in another way, which was eventually done as indicated. Judgment was given for the plaintiff company both in the court of first instance and in the Court of Appeal; and the impression which one gets from this case is that the law on the subject is in a by no means satisfactory state. Though it is hardly possible to put oneself for this purpose into the position of a layman, the conclusion seems inevitable that the ordinary human being would consider that there is in this department of the law a considerable and unnecessary nicety of distinction between cases which ought to be capable of being treated on the same footing. Be this as it may, the lawyer cannot look complacently on, with the satisfactory knowledge that, refined though it may be, the law on the subject is settled; listen to GREER, L.J., at the close of his judgment (p. 182): "That is enough to decide this case; I reserve for further consideration the question how the first ruling in *Houghton's Case* is to be reconciled with *Mahony* v. *East Holyford Mining Co.*" SLESSER, L.J., also refers to "the difficulty arising on the decision in *Houghton & Co.* v. *Nothard Lowe & Wills Ltd.*," a difficulty which everyone who considers that case will feel.

But let us see if we can get at the *ratio decidendi* in the *British Thomson-Houston Case*; for this purpose it is necessary to go to the judgment of SCRUTTON, L.J., which takes us back to an old acquaintance—*Royal British Bank* v. *Turquand*, 6 E. & B. 327, and also to *Mahony* v. *East Holyford Mining Co.*, L.R. 7 H.L. 869, an almost equally familiar name. To refer first of all to the latter case, one of the results which follow from the decision there given is this, that every person dealing with a company is deemed to have notice of the contents of the memorandum and articles of association of that company—actual notice of such contents is, generally speaking, an immaterial factor. Since the decision in *Houghton and Co.* v. *Nothard Lowe & Wills Ltd.* [1927] 1 K.B. 246 (reported also [1928] A.C. 1, but not so as to concern us here), it seems, *pace* the note in [1932] 2 K.B., to which I have referred, that such a generalisation needs some qualification, in that a person who had no actual knowledge of a power of delegation in the articles at the time when he contracted with the company, could not subsequently rely on its supposed exercise. But, you say, under *Mahony's Case*, he must be deemed to have notice of the contents of the articles—the answer to that criticism of the decision in *Houghton's Case* would seem to be that, though that is true, he did not in fact rely on the power of delegation at the time of the contract, and therefore he cannot be heard to do so subsequently, at any rate if there was in fact no delegation.

Then we have the rule in *Royal British Bank* v. *Turquand* (for which *Mahony's Case, supra*, is also an authority) to this effect, that persons dealing with a company are entitled to assume that the company manages its domestic affairs in a proper manner—thus, if the articles confer a particular power (and everyone dealing with the company is deemed, as stated above, to have notice of the fact that there is that power), persons dealing with the company are not bound to see that that power has been, or is being, exercised with all due formalities. The result being, as stated by SCRUTTON, L.J., that if persons dealing with the company "find an officer of the company openly exercising an authority which the directors have power to confer upon him, they are relieved from the duty of further inquiry and are entitled to assume that the power has been regularly and duly conferred."

The decision in *Houghton's Case, supra*, followed in *Kreditbank Cassel* v. *Schenkers Ltd.* [1927] 1 K.B. 826, suggests that this statement is now too wide, in the manner in which I have attempted briefly to indicate above. The latter case is one in which an effort appears to have been made, so far as possible, to get back to the position existing before the decision in *Houghton's Case*, and the result is only a further nice distinction, so nice, indeed, that the difficulties of attempting to apply it are manifest.

It seems (and I write with considerable doubt) to come down to this, that you cannot, as against a company, rely upon a delegation of the powers of directors to an officer of the company, if in fact there was no delegation, and if you were ignorant in fact of the contents of the articles relating to delegation, unless the act done by the officer is one in a matter in which normally the officer would have power to act for the company. If this be a correct view of the law, it gives good ground for despair—what is "a matter in which normally an officer would have power to act for the company"? These words, with the substitution of "officer" for "director" are taken from the judgment of ATKIN, L.J., in *Kreditbank Cassel* v. *Schenkers, supra*. What they mean, I am not prepared even to suggest to my readers. The real difficulty does arise from *Houghton's Case*, and, if the Court of Appeal had decided it differently, the law on the subject might still have been intelligible, which, at the present time, to at least one person, it certainly is not.

The result in *British Thomson-Houston Co.* v. *Federated European Bank* followed from this, that it was held that Mr. PAL was a person acting in a matter in which normally a director would have power to act: it was therefore clear, even in the present state of the law, that the plaintiff company was entitled to judgment.

(To be continued.)

Mr. Ernest R. Taylor, solicitor, of Bedford-row, Holborn, W.C., left £40,350, with net personalty £31,362. He gave £500 to his wife to distribute, as she may think fit, among clerks in his firm of five years' service.

A Conveyancer's Diary.

Equities of Redemption as *bona vacantia.*

Re Wells: Swinburne-Hanham v. *Howard* [1932] 1 Ch. 380 and in the Court of Appeal, *The Times*, 18th July, p. 5, is an interesting case upon the nature of the equity of redemption and also on the law regarding *bona vacantia* generally.

In 1899 a limited company mortgaged certain leasehold properties by assignment. In 1915 the company was wound up voluntarily and a liquidator was appointed. In 1916 the company was dissolved. The mortgagees had in 1913 appointed a receiver of the rents, but at that time the rents were insufficient to pay the full interest on the mortgage debt. The liquidator considered that the equity of redemption was of no value and did not either surrender it to the mortgagees or part with it to any person. The rents had largely increased and the interest in arrear had been paid off, and there remained a balance in the hands of the receiver. The equity of redemption had in consequence become of some value.

The Crown claimed the equity of redemption as *bona vacantia*, and the mortgagees claimed to hold the property free from any right to redeem.

Farwell, J., held in favour of the mortgagees.

In the first place, in dealing with what was the precise nature of *bona vacantia*, his Lordship referred to the statement in "Blackstone" (Kerr), 8th ed., vol. I, p. 298 :—

> "Besides the particular reasons before given why the King should have the several revenues of royal fish, shipwrecks, treasure trove, waifs and strays, there is also one general reason which holds for them all; and that is because they are *bona vacantia*, or goods in which no one else can claim a property."

In that connexion Farwell, J., held that *bona vacantia* could not be limited to what were, strictly speaking, chattels, although there might be a question whether the word "goods" extended to choses in action.

The real point was whether this equity of redemption was an estate in the land which could be regarded as *bona vacantia*, using that term as meaning not only "goods" but any estate in personalty, legal or equitable.

The nature of the equity of redemption has been the subject of many decisions, the result of which seems to be that the equity of redemption is not a mere personal right but is an estate in the land capable of being transferred. It is not a right which disappears when the mortgagor in whom it is vested ceases to exist as a legal entity, but an estate which continues even though there is no one who can claim a right to it.

Thus, in *Casborne* v. *Scarfe* (1738), 1 Atk. 605, it was laid down that "an equity of redemption has always been considered as an estate in the land, for it may be devised, granted or entailed with remainders, and such entails and remainders may be barred by fine and recovery, and therefore cannot be considered as a mere right only, but such an estate whereof there may be a seisin; the person therefore entitled to the equity of redemption is considered as the owner of the land, and a mortgage in fee is considered as personal effects."

Again, in *Pawlett* v. *Attorney-General*, Hardres 465, at p. 469: "But a power of redemption is an equitable right inherent in the land and binds all persons . . . Because it is an ancient right which the party is entitled to in equity."

Then in *Cholmondeley* v. *Clinton* (1820), 2 J. & W., pp. 194-5, "An equity of redemption is considered as an estate in the land; it will descend, may be granted, devised, entailed and that equitable estate may be barred by a common recovery. This proves that it is not considered as a mere right but as such an estate whereof in the consideration of this court, there may be a seisin, for without such seisin a devise could not be good."

There are other authorities to the same effect.

In *Burgess* v. *Wheate*, 1 Eden, at p. 225, Lord Hardwicke's statement in *Casborne* v. *Scarfe* is cited with approval; and in *Middleton* v. *Spicer*, 1 Bro. CC. 201, it was held that an equitable interest in chattels devolved as *bona vacantia*.

In spite of such authorities, Farwell, J., held that the equity of redemption in the case which we are considering did not pass as *bona vacantia*—in fact was a mere personal right which died with the *persona*.

The learned judge based his judgment on certain *dicta* of Wright, J., in *Re Higginson & Dean, ex parte Attorney-General* [1899] 1 Q.B. 325.

In that case the facts were that a trading firm became bankrupt in 1847 and a corporation, created by statute, proved in the bankruptcy with other creditors. In 1887 the corporation was dissolved by an order of the court under the Companies Acts then in force. Afterwards it was discovered that the bankrupts had been entitled to certain railway shares, and the official receiver recovered the value of the shares, and held the proceeds as trustee in bankruptcy. Another creditor moved to expunge the proof of the dissolved corporation, claiming that the money to which the corporation had been entitled as a creditor, and which was then in the hands of the official receiver as trustee, was divisible among the still existing creditors.

It was held that on the dissolution of the corporation the proceeds of the shares in the hands of the official receiver as trustee in the bankruptcy had passed to the Crown as *bona vacantia* and the Crown was entitled to the amount.

From that decision it would appear, at first sight, that there could be no question about the decision in such circumstances as those which obtained in *Re Wells*.

It seems, however, that the elaborate judgment of Wright, J., in that case went to show that the claim of the Crown rested upon the fact that the official receiver held the balance of the proceeds of sale as a trustee, and that had he not done so, the Crown would have had no claim.

I must say that when I read the judgment of Farwell, J., in this case I thought that he was wrong, and particularly so because he appeared to rely upon a statement in the judgment of Wright, J., which does not seem to follow any line of reasoning in his judgment, and certainly cannot be supported by the earlier authorities.

The statement to which I refer is as follows :—

> "It could, however, I think, in the present state of the authorities, be judicial legislation to declare the Crown entitled to maintain actions in such cases except where it can allege a trust."

There is, so far as I know, no other authority which lays it down that the Crown can only claim where there is a trust which fails.

On appeal that view of the matter was upheld.

Lord Hanworth, M.R., after reviewing the authorities and stating what indeed is obvious, that the mortgagee could not be a trustee of the equity of redemption, stated that the observation of Wright, J., which I have cited, was *obiter*, and that the Court of Appeal, having had the opportunity of considering the authorities, could find none to support it.

It will be interesting to see what the House of Lords has to say about this. I do not know whether any appeal is pending, but if it is I would say that I incline to the decision of the Court of Appeal. It seems to me that Farwell, J., based his judgment upon wrong premises.

The question is by no means academic.

It is true that so far as regards a limited company which has been dissolved, s. 296 of the Companies Act, 1929, applies, but that section is not retrospective, and the point in issue may arise where before 1926 a person died intestate without known kin, and a claim is made on behalf of the Crown against whom, it must be remembered, the Statute of Limitations does not run. It is therefore important to notice the express language

of the Master of the Rolls in this connexion. His Lordship said: "The equity of redemption, then, is a right of property which could be disposed of by the mortgagor. In a general sense the mortgagee is not a trustee for the mortgagor; their interests are antagonistic, though the mortgagee might be a trustee in a limited sense—that is in respect of surplus purchase moneys after his own claims had been satisfied."

Landlord and Tenant Notebook.

Liability to Indemnify Bailiff.

A distress warrant may express two things: the authority and the right of indemnity of the holder. The precedents at present in use are characterised by brevity. That contained in the "Encyclopædia of Forms and Precedents" makes no specific mention of the right of indemnity. It limits the bailiff's authority to the distraining of "such goods and chattels as may be lawfully distrained" and to proceeding for the recovery of the rent due as the law directs. One given in Mr. Edmund Davies' recent book on the subject after directing the bailiff to perform the levy continues: "And for your so doing this shall be your sufficient authority and indemnity against all actions. But you are hereby expressly prohibited from taking any goods or chattels or property not legally liable to distraint for rent."

It is the question of indemnity that has given most trouble; for the distrainee is not concerned with the terms of the warrant, and distress can be legally levied (for rent, at all events) without one. Some of the older cases illustrate the difficulties which may arise. In *Draper* v. *Thompson* (1829), 4 C. & P. 84, for instance, the warrant, after setting forth the premises and the amount of rent due and authorising the distraint, went on "and, for your so doing, this shall be your sufficient warranty, authority and indemnification against all costs and charges, in respect to any law expenses, action or actions, that may arise; and, as well as any other and all other charges or expenses that you or your agent may be at, or brought against you or your agent on this account." The bailiff's men came across a cask which was too large to remove; the tenant's son having told them it contained merely spent liquor, of no value, they emptied it and took it to pieces. It actually contained cochineal dye belonging to a third party, who thereupon recovered £50 damages from the bailiff, in trover. In this action the bailiff claimed indemnity from the landlord. The interpretation placed upon the warrant was that it was never intended to indemnify the holder against the acts of his own servants, but was meant rather to protect him in case the distress authorised were illegal.

Perhaps the most useful case is *Ibbett* v. *De La Salle* (1860), 6 H. & N. 233. The wording of the warrant was much the same as in the last case, with an added provision: "nor do I hold you responsible for any goods clandestinely removed from the said premises." An aggrieved party brought an action against the bailiff for conversion, but lost it. The bailiff did not, however, succeed in recovering the costs awarded, and now claimed the amount from the landlord on the strength of the agreement expressed in the warrant. It was held that while such a clause would not extend to protecting the bailiff from the consequences of such misconduct as taking goods he had no right to take, it covered circumstances in which he had done no wrong. Bramwell, B., in the course of his judgment, suggested that the authority and the indemnity were coupled together by virtue of the words "and for your so doing"; and this seems to hit the nail on the head. It may well be that these cases have caused present-day draftsmen to omit elaborate expressions of the right of indemnity from distress warrants (though the fact that it seems doubtful whether an agreement stamp is necessary may have something to do with it). For the interpretations show that the position is the same as if there were no express agreement. At common law a principal is bound to indemnity his agent against expenses lawfully incurred within the scope of his authority; and no landlord would be willing to engage a bailiff on more liberal terms, nor would any bailiff be willing to take any bigger risks. No warrant is in fact necessary, and it is mainly desirable as a means of satisfying the tenant of the grounds of the intrusion.

The general position alluded to was in fact partly illustrated by the case of *Toplis* v. *Crane* (1839), 5 Bing. N.C. 630, in which the defendant was a solicitor who had requested the plaintiffs, a firm of valuers, to levy distress on premises let by a client. Nothing was said about indemnity when the instructions were first given. The plaintiffs employed a firm of brokers, who entered, but when it appeared that the tenant was (as the defendant had always known) an auctioneer, and half a score of notices of claim were handed to the plaintiffs, they asked for and received an undertaking to indemnify, which they repeated to the brokers. The goods were then removed, and notice of the fact given to the defendant; he promised a further guaranty, but four days later purported to revoke his promise to indemnify, on the ground that the goods had not been sold. Meanwhile the ten claimants became troublesome; one action was brought, which the plaintiffs lost; they settled the others, and returned all the goods. The court declined to lay down any general proposition that a broker could always look to the landlord for indemnity, but had no hesitation in concluding, in the facts of this case, that the defendant had both by words and by conduct undertaken to see the plaintiffs through.

Our County Court Letter.

ADMINISTRATOR'S RIGHT OF SET-OFF.

THE question whether a debt due to the administrator personally (from one of the next of kin) may be set off against a claim to a share in the estate, was considered in the recent case of *Langford* v. *W. T. Watkins; R. C. Watkins, garnishee*, at Ross County Court. The plaintiff had obtained judgment on the 17th December, 1931, for £20 6s. 9d. for goods supplied to the defendant, and on the 18th December a summons was served claiming the above amount from the garnishee. The latter (having paid £22 6s. 11d. under a guarantee to the defendant's bank) obtained judgment on the 8th January, 1932, against the defendant for the same sum plus £13 11s. 2d. taxed costs. The defendant was at the same time entitled (as one of the next of kin) to £28 9s. 5d. from an estate of which the garnishee was administrator, but (in that capacity) the garnishee claimed to set off, against the share in the estate, the amount due under the guarantee. The garnishee therefore contended that he was not indebted to the defendant, who (on balance) owed the garnishee £7 8s. 5d., and the plaintiff's claim to be paid £20 6s. 9d. was therefore disputed by the garnishee. In a reserved judgment, His Honour Judge Kennedy, K.C., upheld the right of set-off, but drew a distinction between the defendant's debt to the garnishee and the taxed costs. The latter were not due until the 8th January, 1932, and, at the time of the garnishee summons, the plaintiff (standing in the shoes of the defendant) was entitled to the balance of £28 9s. 5d. in excess of £22 6s. 11d. then owing to the garnishee, viz., £6 2s. 6d. only. Judgment was given accordingly with costs, in reliance upon a principle enunciated by Sir George Jessel, M.R., in *Taylor* v. *Taylor* (1875), L.R. 20 Eq. at p. 160, as being "clear, on every principle of equity, on every principle of common sense and common justice."

THE REMUNERATION OF MOTOR SALESMEN.

A QUESTION of deprivation of commission (owing to the principals completing the transaction themselves) was considered in the recent case of *Gill* v. *Stocks* (1920) *Limited* at

Spilsby County Court, in which the claim was for £23 5s. in respect of the sale of a Hillman car. The latter had been sold by the plaintiff (as the defendants' agent) for £310, the purchaser being allowed £185 in part exchange in respect of an Austin 12, which the defendants sold the same day for £155, i.e., at a loss of £30. The purchasers of both cars had previously been approached by the plaintiff, who contended that no loss would have been incurred if he had been allowed to complete the transactions himself, especially as he was entitled to half the net profits on his dealings. The defendants had paid into court £3 11s. 4d., their contention being that (1) the plaintiff's commission was subject to deductions for (*a*) work necessarily executed on making second-hand cars re-saleable, and (*b*) loss of profit on re-sale of cars taken in part exchange; (2) there was no agreement that the plaintiff should have the exclusive right to complete any transaction he initiated; (3) there was no negligence in selling the car for £30 less than they paid for it. His Honour Judge Langman observed that the price of second-hand cars varied with the demand, and the defendants, who had done their best to obtain £185, had been forced to sell at £155. The allegation of negligence therefore failed, and it had also not been proved that the plaintiff had been prevented from earning a bigger commission. The defendants had rightly deducted £9 7s. 4d. for repairs, and the amount paid into court was the plaintiff's proper share of commission. Judgment was therefore given for the defendants, with costs. Compare the "County Court Letter," entitled "The Responsibilities of Garage Proprietors" in our issue of the 16th April, 1932 (76 Sol. J. 267).

Correspondence.

Recovery of Costs.

Sir,—We are compelled to disagree entirely with the note you append to our letter of the 27th ult., appearing in your issue of the 9th inst., p. 493.

King v. *Kype* remains as good law after the Act of 1843 as it was before that Act. The only difference made by the Solicitors Act, 1843, was that statutory sanction was given to an application by a solicitor for the taxation of his own bill, which could not be done under the Act 2 Geo. II, c. 23, s. 43. The Act of 1843 does not authorise, in such a taxation, the determination of the client's liability without his consent. As Lord Warrington of Clyffe and Lord Russell of Killowen have recently observed, the taxing master is concerned to certify the amount (quantum) of the bill "and no more. He has no jurisdiction. He is not a judge." It is clear that s. 43 of the Act is only concerned with the enforcement of an ascertained or admitted liability and that the Act provides no procedure to enable a question of disputed liability to be tried: *Re Rhodes* (1844), 8 Beav. 224; *Re Beale* (1845), 11 Beav. 600. It is a principle of English law that disputed questions of fact and of liability ought to be tried in open court and not under any summary procedure. *In re Debenham & Walker* is an example of this and not a decision on a point of mere Chancery practice. Nor is this decision in the least inconsistent with *Re Brockman* (1909), 2 Ch. 170, though we are aware that one or both of the annual practices and a well-known digest of English law suggest that it is. Possibly you have relied on these dicta. *Re Brockman* may fairly be referred to as a decision on a point of Chancery practice. All that was in issue there, and all that was decided was whether or not a client, applying to tax within a month of delivery of bill, was entitled to an order to tax without giving an undertaking to pay and whether the taxing master should in taxing distinguish statute-barred items. The Court of Appeal answered both these points in the affirmative, and incidentally, on the first point, upset a practice of the Chancery Courts of over 150 years' standing, as being inconsistent with the Act of 1843.

Also, have you not overlooked the fact that *Re Brockman* was a case of a client taxing, and is therefore irrelevant to the subject of your article and this correspondence, whereas *Re Debenham & Walker* was a case of a solicitor taxing and therefore in point? The distinction between these two classes of taxation is vital on the question of enforcing payment under the Solicitors Act, 1843, s. 43, which enforcement in truth depends upon the submission to pay of the client, expressed in his application to tax, or, (possibly), to be implied therefrom. A client cannot tax without admitting liability.

You are mistaken in stating that in *Re Brockman* the Court of Appeal laid down that an order for payment can be made in any division irrespective of whether the application to tax is made by the client or the solicitor.

In any case the remarks you refer to were *obiter dicta* and would require further consideration if the point came up for actual decision.

13th July. "Subscribers."

[We cannot usefully add much to what has already been written, except, in the first place, to thank our subscribers for the trouble they have taken. Secondly, we note that our views are supported by more than one standard legal work. Our correspondents' main point seems to be that the taxing master has no jurisdiction to decide questions of liability. We agree, but, as we have already pointed out, if the client disputes the retainer, then he has ample opportunity of raising this point on the summons to tax, and if he fails to do so then he cannot afterwards complain. There is thus no question of leaving the taxing master to decide questions of fact or liability, unless he is specifically asked to do so.—Ed., *Sol. J.*]

Reviews.

Fraud in Medico-Legal Practice. 1932. By Sir John Collie, C.M.G., M.D., J.P., Lt.-Col. R.A.M.C., Consulting Medical Officer to the Ministry of Pensions, Medical Examiner to various accident insurance companies; formerly President Special Medical Board for Neurasthenia and Functional Nerve Disease. Demy 8vo. pp. xi and (with Index) 276. London: Edward Arnold & Co. 10s. 6d. net.

The Workmen's Compensation Acts and National Health Insurance, whatever their advantages, have put a premium on illness. It now costs much more to insure against accidents to industrial workers than was originally estimated for the purposes of the Compensation Acts. The number of non-fatal accidents has increased since these Acts were passed at a much greater rate than can be explained by the greater speed and more complicated conditions of industry at the present day. These facts prove that malingering, conscious and unconscious, is deplorably common, and that it throws a great burden upon the employer, the insurance company, and the community at large—a positive burden of compensation and a negative burden of loss of working time. The result is that a ceaseless war is waged on the one hand between the employer and the insurance company, who rightly wish to restrict compensation to deserving persons, and on the other hand the workman or insured person who wishes to take unfair advantage of the law. Sir John Collie has long lost count of the number of examinations of alleged sickness or accident he has conducted; up to the year 1917 they amounted to 31,000, and since then they have probably doubled. He is a past master of detection of the exact degree of illness or injury from which a given person suffers and has an experience of malingerers second to none, but what is far more, he knows intimately that debatable and difficult country of the "functional" case, the "litigation neurosis," where the patient does not consciously wish to deceive but unconsciously is most ingenious and persistent in evading responsibility by

magnifying his real complaints and simulating such others as are most useful for his purpose. Those whose business it is to advise employers or insurance companies, or to represent them in court, cannot afford to do without this book; conversely, anyone who is called upon to represent a person claiming compensation on the ground of injury would be well advised to study it in order that he may better understand the truth of his client's claim and the nature of the opposition which he is likely to meet. The language is admirably non-technical, for Sir John Collie is well accustomed to writing reports for laymen. The arrangement, printing and illustrations are all that could be desired, and two well-drawn diagrams of the skeleton will give the reader much useful knowledge of bone anatomy in a very few minutes. Finally, the book is entertaining enough to be read off duty, and the many case reports throw an interesting light upon a side of life which is unfamiliar to most lawyers.

Judicial Wisdom of Mr. Justice McCardie. Edited by ALBERT CREW, of Gray's Inn and the Middle Temple, Barrister-at-Law. 1932. Crown 8vo. pp. (with Index) 298. London: Ivor Nicholson and Watson, Ltd. 7s. 6d. net.

This is a collection of some thirty interesting cases tried by McCardie, J., and is intended primarily for the general reader. The cases are divided up into three parts, dealing respectively with (*a*) domestic and social relations; (*b*) divorce; and (*c*) legal cases of general interest. The selection of cases and the editing of the facts and judgments to make them more readily "understanded of the people" has been well done having regard to the object in view. The first series includes the notorious *Place* v. *Searle Case*, and an Appendix sets out the judgments of the Court of Appeal therein. The reports are prefaced by an article on the learned judge himself and his career, reprinted from the *Law Journal*. This is really the most interesting feature of the book and does no more than justice to its distinguished subject. The career of McCardie, J., provides several object lessons which may well be noted and taken to heart at the present time when the future of the English Bar seems to be shrouded in uncertainty. One is that it negatives the widely disseminated idea that training as a solicitor is a necessary part of the education of a successful barrister; the other that it proves that to succeed as an advocate a man need not be born in the purple and nurtured in the Temple. Few men have succeeded both at the Bar and on the Bench in securing the confidence of litigants and of the public to the extent enjoyed by Mr. Justice McCardie, and the explanation is largely to be found in the fact that he began life in other than cut-and-dried legal surroundings, and consequently can bring to bear upon legal problems a much wider experience of human affairs generally and a more tolerant appreciation of human weakness and human striving than immersion in a legal atmosphere from a man's earliest years will allow to develop.

Books Received.

The Life of Lord Carson. Vol. I. 1932. By EDWARD MARJORIBANKS. Demy 8vo. pp. viii and (with Index) 455. London: Victor Gollancz, Ltd. 15s. net.

The New Procedure Rules, 1932, Annotated and Explained. By W. VALENTINE BALL, a Master of the Supreme Court. 1932. Demy 8vo. pp. 32. London: Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd. 2s. 2d. post free.

Income Tax Up to Date, 1932-33. By H. J. GULLY, F.C.A. 1932. London: The Financial News, E.C.2. 9d. net.

The New Law of Property. By ALFRED F. TOPHAM, LL.M., of Lincoln's-inn, one of His Majesty's Counsel. 1932. Demy 8vo. pp. xxxviii and (with Index) 501. London: Butterworth & Co. (Publishers), Ltd. 15s. net.

The North Carolina Law Review. Vol. X. No. 4. June, 1932. Chapel Hill: The University of North Carolina Press. 80 cents per copy. Subscription: $3 per annum.

A Lawyer's Notebook. (Anonymous). Introduction by ALEC WAUGH. 1932. Crown 4to. pp. 246. London: Martin Secker. 5s. net.

The Law Quarterly Review. Vol. XLVIII, No. 191. July, 1932. London: Stevens & Sons, Ltd. 6s. net. Annual subscription, 20s., post free.

Workmen's Compensation and Insurance Reports. Pt. I. 1932. London: Stevens & Sons, Ltd.; Sweet & Maxwell, Ltd. Annual subscription, £2, post free.

Notable British Trials: Trial of John Watson Laurie (The Arran Murder). Edited by WILLIAM ROUGHEAD. 1932. Demy 8vo. pp. xiii and 285. Edinburgh and London: William Hodge & Co., Ltd. 10s. 6d. net.

Thirteenth Annual Report of the Ministry of Health. 1931–31. London: H.M. Stationery Office. 5s. net.

The Victims of Fraud. By EUSTACE J. HARVEY. 1932. Demy 8vo. pp. xxx (with Index of Cases) and (with Index) 304. London: The Oxford University Press; Humphrey Milford. 24s. net.

Jurisprudence. By W. NEMBHARD HIBBERT, LL.D. 1932. Royal 8vo. pp. vii and (with Index) 332. London: Sweet & Maxwell, Ltd. 12s. 6d. net.

Obituary.

MR. C. R. DUNLOP, K.C.

Mr. Charles Robertson Dunlop, K.C., a leader of the Admiralty Bar, died on Tuesday at his London home, at the age of fifty-six. Mr. Dunlop was the fourth son of Professor James Dunlop, of Glasgow, and was born on 9th January, 1876. He entered Glasgow University in 1891, where he was prizeman in Scots law in 1898. In 1894 he went up to Balliol College, Oxford, and obtained a first-class in the B.C.L. examination in 1900. He was called to the Bar by the Inner Temple in 1901, and took silk in 1919, being elected a bencher of his Inn in 1927. During the years 1903 to 1910 Mr. Dunlop was reader and lecturer at the Incorporated Law Society.

MR. W. W. ISAACSON.

Mr. Wotton Ward Isaacson, solicitor, senior partner in the firm of J. & W. W. Isaacson, of King's Bench Walk, Temple, died on the 2nd July. Mr. Isaacson was admitted in 1870.

MR. F. E. E. J. HALL.

Mr. Frederick E. E. J. Hall, the well-known Bradford solicitor, died suddenly on the 11th July. Mr. Hall who was admitted a solicitor in 1906, joined the late Mr. R. Newton Rhodes as partner many years ago, the firm being known as R. Newton Rhodes and Hall, and it was under this name that Mr. Hall continued the practice after Mr. Rhodes' death.

MR. JOHN PRICE.

Mr. John Price, of Brecon, solicitor, died at his residence in that town on the 3rd July. Mr. Price, who was admitted in 1894, was educated at Christ College, Brecon, and was articled to his uncle, the late Mr. W. Powell Price, who was registrar to the College and whom he succeeded in that office.

MR. JOHN HAWORTH.

The death took place on Tuesday, the 5th July, of Mr. J. Haworth, one of the oldest solicitors in Blackburn. Mr. Haworth was admitted in 1890 and practised continuously in the town, first in Richmond-terrace and later at Victoria-street, until a few months ago, when he retired owing to ill-health.

POINTS IN PRACTICE

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Liability for Accident to Pupil.

Q. 2522. A, a child of twelve, attended a council school of the X county council. B, the child sitting next to A, jumped up to answer a question and nudged A's elbow, causing A to jerk her own pen into her eye. The eye was injured so badly that an artificial eye will probably be necessary. Has A any claim against the county council who are at present denying liability?

A. The only ground upon which A could claim damages would be for negligence in not providing (*a*) sufficient accommodation, whereby the class-room was overcrowded, or (*b*) sufficient teachers, whereby the class was too large—these two questions being, in fact, a variation of the same issue. Possibly a claim might be made also against the teacher for negligence, if B had previously shown a mischievous propensity, or was sitting too near A, in breach of orders. As the accident took place during an actual lesson, the case cannot be brought within either *Smith* v. *Martin and Kingston-upon-Hull Corporation* [1911] 2 K.B. 775, or *Morris* v. *Carnarvon County Council* [1910] 1 K.B. 840. Unless further evidence can be obtained on (*a*) and (*b*), *supra*, the case appears to be one of inevitable accident. The county council are therefore not liable, on the authority of *Chilvers* v. *London County Council* (1916), 32 T.L.R. 363—a similar case of eye injury.

Settled Land—Sale of House by Tenant for Life and Purchase of a Smaller One.

Q. 2523. A, a married man, made his will, and thereby gave all his property to his wife for life, and after her death in trust for persons specifically mentioned. The wife is clearly a tenant for life and the point upon which information is now required is, can the wife sell the house in which she is now living and which is too large for her, and can she, if she so sells, purchase a smaller house out of the proceeds of sale?

A. If the necessary vesting instrument has been executed and there are two trustees, the tenant for life can sell and purchase out of the capital money a smaller house under S.L.A., 1925, s. 73 (1) (xi) and s. 75 (2). The trustees are not bound to enquire as to the propriety of the purchase (s. 97 (*b*)), but it is considered they have a right if they wish to require evidence that a proper title is furnished and that the price is a fair one.

Income Tax—Assessment of Flats.

Q. 2524. A large country house has been converted into (*a*) basement, housekeeper's rooms; (*b*) ground floor, club premises and two other large rooms now void; (*c*) first floor, three flats; and (*d*) second floor, two flats with common staircases and passages. There are separate assessments (eight in all) for general rates. A large house in London has been converted into (*a*) basement flat, garage; (*b*) ground floor flat; and (*c*) first and second floor flat, each with separate front door and entirely self-contained. There are separate assessments (four in all) for general rates. In both cases the Inspector of Taxes claims to raise one assessment on the whole premises, so that the owner gets much reduced allowance for repairs than if separate assessments were made on each flat. See *Towle* v. *The Improved Industrial Dwellings Coy. Ltd.*, decided 7th May, 1930, and *Consolidated London Properties Ltd.* v. *Johnstone* [1931] 1 K B. 263. Is the inspector correct? Can any different reasoning be applied in the case of the London property from the country property?

A. The decision of the Court of Appeal in *Consolidated London Properties Ltd.* v. *Johnstone* was reversed by the House of Lords in January last, but only on the ground that the inspector has passed separate assessments on the flats, and the point was not open to the Crown to argue. On the present authorities the position is that one assessment on the whole building is right for both town and country under No. VII, r. 8 (*c*), but that, while the poor law assessments (aggregated) are conclusive (subject to No. V, r. 7 (*a*)), in the Metropolis, by virtue of the Metropolis Valuation Act, they are not so elsewhere and a concession may, outside the Metropolis, be made to meet voids. Apparently the only cases in which separate assessments can be claimed are where (*a*) the building has no common entrance from outside, as where an upper flat has an outside staircase only, or (*b*) the flats are held in separate ownerships, when No. VII, r. 12, applies.

Devise of Land subject to Annuity—Assent to Devise.

Q. 2525. By a will which came into force after 1926, a testator bequeathed an annuity and gave all the residue of his real and personal estate to B, and appointed B, C and D his executors and trustees. By the rule laid down in *Greville* v. *Browne* (7 H.L. Cas. 689), and s. 1, sub-s. (1) (v), of the S.L.A., 1925, the real estate became settled land, and B, C and D trustees for the purposes of the Act. The annuity being of small amount, and the executors being satisfied that it is otherwise sufficiently secured, (1) can they properly assent to the vesting in B of the real estate free from the settlement, and (2) cannot s. 38 of the A.E.A., 1925, be relied upon to prevent a purchaser from B requiring the concurrence of the trustees? In the article "Charges on Residue" in the *Law Times Journal*, vol. 173, p. 127, the view appears to be taken that B could not be put into the position of an absolute owner by any assent.

A. As to what may be the effect of a simple assent to B there may be a difference of opinion, but our view is that the executors have a duty not to make an assent to the devisee free of the annuity so long as the annuity is a charge on the real estate. If the annuitant is *sui juris* and not subject to restraint on anticipation the difficulty can be got over by the annuitant first releasing the real estate from the annuity. The annuitant must of course be properly advised.

Liability for Predecessor's Income Tax.

Q. 2526. We have recently been concerned in connexion with a query which has arisen as to the liability of a purchaser for tax due for a period prior to the purchase. Our client completed the purchase in October of 1930. The property was leasehold, the ground rent being paid in June and December of each year. The vendor was not liable for tax under Sched. A, except the tax deducted from the ground rent. On completion of the matter, an undertaking was given on behalf of the vendor for the discharge of tax up to the date of completion, but this was not complied with. The tax authorities then demanded the discharging of the tax from our client, and we took the point that as our client was a purchaser from an owner-occupier, the authorities were barred under para. 3B, r. No. 7 of Sched. A to the 1918 Act. The

inspector of taxes argued that such paragraph could only apply to "Tax which ought to have been levied upon and ultimately borne by any former occupier." The inspector of taxes argues that the words "ultimately borne by" definitely limits the section to those cases where the tax is the liability both immediate and in fact, of the owner-occupier, i.e., tax under Sched. A assessed on the annual value, as distinct from tax deducted from ground rent, in which case the inspector argues that although the tax is paid by the owner-occupier, inasmuch as he has the right to deduct same from his ground rent, the tax is ultimately borne by the ground landlord and therefore such tax does not come within this section. We shall be glad if you will let us have your views on the matter and if you could refer us to any outside case it will be of assistance.

A. Rule No. 7, para. 3 (*b*), should be read in conjunction with r. No. 8, para. 7, as the two were formerly embodied (in the reverse order) in The Income Tax Act, 1853, s. 35, and (as such) were construed in *In re Hayman, Christy & Lilly, Ltd.* (*No.* 2) [1917], 1 Ch. 545. The distinction drawn by the inspector of taxes is correct, as the tax evidently ought to have been "ultimately borne" by the lessor and not by the former occupier, who was not liable for tax—except that deducted from the ground rent, which was only "levied upon" the former occupier. Two different processes are implied in the expression "levied upon and ultimately borne by," whereas the questioner's argument implies either that the two phrases are synonymous, or that the second is redundant. The tax in question, therefore, does not come within the paragraph relied upon, and must be paid in accordance with the inspector's argument. The purchaser can recoup himself, however, out of any (not necessarily the next) payment of rent to the lessor, under r. No. 8, para. 7, as laid down in the above case. The undertaking given on behalf of the vendor for the discharge of tax up to the date of completion (as stated in para. 4 of the question) appears to have been given in error, as apparently it should have been given by the purchaser. The latter incurred the obligation of deducting the tax at December, 1930, and it was he who ought to have undertaken to discharge the tax up to completion, so as to safeguard the vendor from June, 1930, onwards.

Rent Restrictions Acts—Sub-Tenant.

Q. 2527. D was the tenant of a dwelling-house and was entitled to the benefit of the Rent Acts. D occupied for himself part of the premises. D sub-let another part of the premises to H. D sub-let a further part of the premises to S, on the 25th October, 1925. D, the tenant, deserted the premises in May, 1928. The landlord took possession of that part formerly occupied by D and collected the rents from the two sub-tenants H and S. In December, 1931, H was ejected by the magistrates at the request of the landlord. The only person on the premises is now S. Can the landlord successfully demand possession of that part occupied by S? Presumably D could have demanded such possession from S if D had remained the tenant. Does not the landlord possess the rights of D, under the circumstances? The rent paid by S is 8s. per week inclusive. All the rents payable in this connexion were small rents within the limits of the Rent Acts, and the question of business premises does not arise.

A. On principle we agree that the rooms let to S should be deemed outside the protection of the Acts, but we feel bound to say that on the present state of the authorities it would not be wise to take proceedings unless the landlord is prepared to go at least to the Court of Appeal. In *Roe* v. *Russell* [1928] 2 K.B. 117, it was held that a statutory tenant may lawfully sub-let, but the question of the sub-tenant's protection was left undecided. *Doulin* v. *Parcell*, 43 T.L.R. 140, and *Domendietts* v. *Ryan*, 73 Sol. J. 318, are authorities that a sub-tenant is protected *qua* his own landlord, by the proviso to s. 2 (1) in the case of a sub-letting by a (apparently) contractual tenant.

Notes of Cases.

Court of Appeal.

Croker *v.* **Croker and South.**

Lord Hanworth, M.R., Slesser and Romer, L.JJ. 1st July.

Husband and Wife—Divorce—Practice—Jury's Finding that Respondent Wife not Guilty of Adultery—Reversal of that Finding by Court of Appeal—Right of Court of Appeal to Grant Decree *nisi*—Rules of the Supreme Court, Order 58, r. 4—Order 39.

Appeal from a judgment of Langton, J., on the finding of a jury.

A husband petitioned for divorce, but the jury found that the wife had not committed adultery, in spite of evidence to the contrary and of a confession by the wife. Langton, J., dismissed the petition, while intimating that he did not agree with the verdict. The husband appealed. The Court of Appeal found that the verdict was one which twelve reasonable men ought not to have given, and that the respondent's misconduct was proved. Petitioner's counsel then prayed the court to make a decree *nisi*, but respondent's counsel contended that that was not the practice of the Court of Appeal, and that the only relief they could grant was to order the petition to be re-heard.

Lord Hanworth, M.R., delivering judgment for the court, said that *Wilkins* v. *Wilkins* [1896] P. 108, laid it down that an appeal from the Divorce Division was governed by the same rules as one from the King's Bench. By Ord. 58, r. 4, the Court of Appeal had power "to give any judgment and make any order which ought to have been made, and to make such further or other order as the case may require." Rule 39, which dealt with orders for new trials, carried out the principle of Ord. 58, r. 4, and showed the general power of the Court of Appeal to put matters on the footing upon which they should have been put by the court below. In *Millar* v. *Toulmin*, Lord Esher, referring to the court's powers, said (17 Q.B.D., at p. 604): "Under this rule very large powers are given to the Court of Appeal, including, in my opinion, the power, if all the necessary materials are before the court, of giving that judgment which, in the opinion of the court, ought to be the judgment between the parties, even though such judgment be inconsistent with the findings of the jury. In *Allcock* v. *Hall* [1891] 1 Q.B. 144, *Paquin Limited* v. *Beauclerk*, 57 W.R. 521; [1906] A.C. 148, and *Skeate* v. *Slaters Lim.* [1914] 2 K.B. 429, the same view was taken, and in *Rugg-Gunn* v. *Rugg-Gunn and Archer*, 75 Sol. J. 424; [1931] P. 147, the Court of Appeal decided that the parties to a matrimonial suit had no inherent right to the verdict of a jury. The appeal would therefore be allowed and a decree *nisi* made.

Counsel: *Compton Miller*, for appellant; *F. H. Collier*, for respondent.

Solicitors: *Kingsford, Dorman & Co.*, for *Kingsford, Arrowsmith & Wightwick*, Canterbury; *Lea & Lea*, for *Mercer and Cadle*, Canterbury.

[Reported by G. T. Whitfield-Hayes, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Seaton *v.* **London General Insurance Co. Limited.**

Du Parcq, J. 29th June.

Insurance—Motor Car—Engine removed to other Premises of Claimant for Repair—Destroyed by Fire—Claim covered by Policy.

This was an appeal in the form of a special case on the award of an arbitrator.

On the 19th January, 1931, the claimant signed a proposal form for insurance by the respondents, under certain conditions, of a Ford motor lorry. The respondents accepted the proposal and issued the policy on the 12th February, 1931,

the duration of the policy to be until the 20th January, 1932. By the policy the respondents agreed to indemnify the claimant against loss, damage or liability actually occurring during the currency of the policy in respect of any motor vehicle, the sole property of the claimant, while such vehicle was being used by the claimant solely for the purposes warranted in the schedule, and was in the employment, custody and control of the claimant and being driven by him or by his fully competent, paid and licensed driver. The insurance covered, *inter alia*, "Loss of or damage to any vehicle described in the schedule (including the necessary accessories thereon) caused by accidental fire, up to the market value of the vehicle at the time of such loss or damage. . . ." In September, 1931, the claimant found it necessary to repair the lorry and did the work himself with his own men. To do so he removed the engine from the lorry in his garage and took it to other premises belonging to him which were situated about 150 yards from the garage. After the repairs to the engine were completed the premises were destroyed by fire at night and the engine was completely destroyed. The claimant made a claim under the policy, and on the 22nd September the respondents repudiated liability. The claim was referred to arbitration. The arbitrator found that the respondents were liable under the policy.

Du Parcq, J., said that the claimant did not cease to be insured though the lorry might be temporarily out of action. If he had taken the whole vehicle out of the garage and to his other premises, and had there removed the engine, he would still have been insured, and the question was, what was the effect of his taking the engine and leaving the rest of the vehicle behind? At the time of the fire the claimant still had a motor lorry, though it was in two parts; he was still using it solely for purposes warranted in the schedule; and it was still in his employment, custody and control. In those circumstances the insurance applied and the award must be upheld. A stay was granted.

Counsel: *G. O. Slade*, for the Insurance Company; *W. N. Stable*, for the claimant.

Solicitors: *Allen Pratt & Geldard*, Cardiff; *Stafford Clark & Co.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

James *v.* Audigier.

Swift and Macnaghten, JJ. 1st July.

Practice—Alleged Misreception of Evidence—Irrelevant—Prejudicial—To Credit—Judicial Discretion to Admit—R.S.C., Ord. XXXVI, r. 38.

This was an appeal by the defendant, Victor Audigier, from an order made by Judge Higgins at Willesden County Court refusing to grant a new trial.

The action was one in which Frederick James claimed damages for personal injuries which he alleged were caused by the negligent driving of a motor-bicycle by the defendant. The plaintiff's counsel, in the course of cross-examination, asked the defendant, *inter alia*, the following questions: "(1) Did you have, about the same time, another accident in the same street?—Yes. (2) And there, though I am not suggesting that you were in any way to blame, the results were fatal?—Yes. (3) Did you tell the jury at the inquest that exonerated you that you had had this accident?—No." The jury returned a verdict in favour of the plaintiff, awarding him £150 damages. The defendant's counsel, who had not formally objected to the three questions when they were put, asked for a new trial on the ground of misreception of evidence. The county court judge refused to grant a new trial and entered judgment for the plaintiff. The defendant now appealed.

Swift, J., in giving the considered judgment of the court, said that it was contended that those questions ought not to have been asked; that they were quite irrelevant to the issues which the jury had to try; and that they were entirely unfair and most prejudicial to the defendant. The question raised in the appeal was one of great practical importance. It appeared to be quite plain that where a defendant was charged with negligence in a particular case it was not competent to ask him a question to obtain an answer which would show that he had been negligent on some other occasion or occasions. Much less was it competent to ask him a question which merely showed that he had been involved in some accident for which it was not suggested that he was to blame. Such a fact was quite irrelevant to any issue raised at the trial. On the other hand, a question properly directed so as to test his credibility as a witness, or his skill or competence as a driver, if those matters were in issue, was not to be excluded merely because it showed that he had previously been involved in one or more other accidents. It appeared to them that the matter was essentially one for the decision of the judge at the trial. By Ord. XXXVI, r. 38, of the Rules of the Supreme Court: "The judge may in all cases disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious and not relevant to any matter proper to be inquired into in the cause." A similar provision was included in Ord. XXII, r. 12, of the County Court Rules. They thought that it was quite clear that the judge would have ruled the questions admissible, to show that the defendant was a generally inexperienced and unskilful driver. They thought that there was no fault to be found with the trial and they dismissed the appeal.

Leave to appeal was granted.

Counsel: *Hilbery*, K.C., and *P. Quass*, for the appellant; *J. P. Eddy*, for the respondent.

Solicitors: *Shaen, Roscoe, Massey & Co; W. Goodwin.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

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In Lighter Vein.

The Week's Anniversary.

On the 27th July, 1684, Mr. Justice Wyndham, then in his eighty-first year, died at Norwich, while on circuit. Longevity was remarkably common among seventeenth century lawyers, and many of these venerable sages had given proof of considerable political agility during the successive upheavals of a revolutionary period, but Wyndham's career was practically free from reproach. He attained the degree of sergeant in 1654, and performed judicial functions during the Commonwealth, notwithstanding his objection to acting under Cromwell's commission. On the Restoration, he was confirmed in the rank of sergeant and returned to practise at the Bar until in 1670 he was raised to the Bench. He does not appear to have been specially notable as a judge, and one of his principal achievements seems to have been to let loose a series of religious prosecutions by a vehement attack in 1658 at the Lincoln Assizes on clergymen who refused the Sacrament to any but the ignorant and the scandalous.

ARMS AND THE COURT.

The grave quiet of the Winchester Assize Court was broken recently while Mr. Justice Charles was presiding there by parade ground noises from the adjoining barrack square. The judge passed over the disturbance with a casual comment, threatening no such drastic step as did Lord Chief Justice Ellenborough when a company of Westminster Volunteers sheltering in Westminster Hall during a storm troubled him with the rattle of their muskets. "Usher, what noise is that?" he asked. "Oh, my lord," was the reply, "it's only the volunteers exorcising, my lord." "*Exorcising*, are they?" exclaimed the judge. "Well, sir, we will see who is best at that. Tell the volunteeers, if they do not depart instantly, I shall commit them to the custody of the tipstaff."

ELEVEN TO ONE.

There was an unusually dramatic scene at the Winchester Assizes when the foreman of a jury shouted: "Although I have pronounced a verdict of guilty, I do not agree with it. It is on my conscience. I was overborne by my fellow jurymen." To him perhaps might have been applied the very happy reply of Mr. Baron Huddleston, when asked by a juror whether he wished him to go against his conscience. "No; I wish you to act in accordance with the evidence." The sense in which a juryman may be said to be "overborne" by his fellows has infinite varieties. In one case in which the jury were eleven to one, a member of the weary majority happened to light a cigarette. Immediately, the resister protested, declaring that he hated smoking. "I am glad to hear it," replied the smoker, and immediately proceeded to hand round his cigarette case to the rest. By their combined efforts, they soon reduced their companion to asphyxiated acquiescence.

JUDGES AND CARS.

Mr. Justice Goddard has joined the Lord Chancellor as one of the most vigorous champions of pedestrian rights in a world obsessed by mechanical locomotion. The picture he drew at the Lewes Assizes of our roads "strewn with injured and dead" is substantiated by the figures so often appealed to by Mr. A. P. Herbert (of the Inner Temple). Not so very long ago, it will be remembered, both my Lords Darling and Buckmaster were added to the motorists' "bag."

"My fathers scaled the mountains in their pilgrimages far,
But I feel full of energy when sitting in a car."

is fatally true. Even that terrific walker Mr. Justice Day was inclined to put on speed when he acquired a motor-car. Once his friend Judge Willis felt it his duty, as one actively administering the law, to urge him to keep within the legal speed limit. Day immediately gave strict instructions to his chauffeur, who so modified the pace that Willis was soon betrayed into complaining of the snail's rate they were travelling, and thereafter protested no more at acceleration.

Societies.

The Gloucestershire and Wiltshire Incorporated Law Society.

The annual general meeting was held on the 14th July, 1932, at Birdlip, Gloucestershire, under the chairmanship of Mr. C. K. Hulbert, of Salisbury, President. There were forty other members present. The report and accounts were received and adopted. Mr. Herbert Harger Scott, of Gloucester, was elected President for the ensuing year, and Mr. Geoffrey Henry Pavey Smith, of Nailsworth, was elected Vice-President. The General Committee, Poor Persons Cases Committee and Library Committee were re-appointed. The sum of £21 was voted as a subscription to the Solicitors' Benevolent Association, and the sum of £34 was voted to relatives of late members in necessitous circumstances. Six new members were elected, making the number of members of the Society 145.

Banquet to His Majesty's Judges.

The Right Hon. Sir MAURICE JENKS, Lord Mayor, and the Lady Mayoress entertained His Majesty's Judges at the annual banquet at the Mansion House on 15th July. When the loyal toasts had been honoured, the Lord Mayor proposed the health of the Lord High Chancellor. He said that one of the most highly esteemed privileges of the Lord Mayor during his year of office was this occasion when he entertained the judges. The advance of civilisation tended to increase the complexity of daily life and there never had been a time when law and order were more essential to the welfare of the people. Happily, there had never been a time in the long history of this country when its judicature had been better equipped with judges of great learning and high character, whose administration of justice was the admiration and envy of the civilised world. Promptitude and absence of delay were almost as essential as impartiality in litigation, and the City was glad to recognise in the Lord High Chancellor a man who was doing much to expedite the hearing of causes. To him the New Procedure Rules were largely due. In his person it recognised also an enlightened and worthy successor to those who had adorned the Woolsack. While the laity fully realised that the labourer was worthy of his hire, they hoped that the expenses of litigation might be reduced. It would, however, be a foolish economy to deplete the strength of the Bench; the salary of every judge was more than covered by the hearing and other fees.

The LORD CHANCELLOR, replying, said that during the last six months the personnel of the Bench had seen several changes. Lord Dunedin had retired after a quarter of a century's occupation, with marked distinction, of some of the most prominent positions in the legal world. He had earned a place in the history of our law and would always be remembered for his charm and his unvarying kindness to the newcomer in the House of Lords. His place had been filled by Lord Wright, a trained commercial advocate, well known in the City of London. Mr. Justice Rowlatt had retired in April, and the Bench had lost a profound lawyer, but he had since rendered a great public service by becoming Chairman of the Commission on the betting laws. Three new judges had been added to the King's Bench Division: Mr. Justice du Parcq, Mr. Justice Goddard and Mr. Justice Lawrence. There had been no change on the County Court Bench, but he (the Lord Chancellor) wished to emphasise again the obligation of the country to the members of this Bench, who performed a difficult and onerous task to the general satisfaction.

ECONOMY IN LITIGATION.

By a happy coincidence the New Procedure Rules had been issued on Empire Day. Some thought that these rules did not go far enough, but he would remind critics that to climb steep hills required slow pace at first. The rules were the first but would not be the last reform. Their success was largely due to the hard work and enthusiasm of Mr. Justice Swift and Mr. Justice Macnaghten. Another step towards economy had been the modification of the two-thirds rule so that it did not apply when the leader's fee exceeded 150 guineas. This seemed to be a fair and reasonable settlement. For some years solicitors had been entitled to add 33⅓ per cent. to the bills they delivered to their clients, and he had ventured to suggest that a modification might now be considered. Although the times were pressing heavily on many of the younger solicitors, the suggestion had met with a most generous response, and the profession had accepted a reduction to 25 per cent. for litigious work and 20 per cent. for non-litigious work. Another reform had been the passing of an Act consolidating the law relating to solicitors, and the expense of appeals to the House of Lords had been greatly reduced by recent directions. Further reforms were in contemplation: a Bill was being prepared to remedy the present multiplicity of opportunities for appealing, and another had been drafted for the reform of procedure against the Crown.

Despite the best possible tutors and lecturers, there was a good deal of overlapping in legal education, and it was doubtful whether the present organisation utilised those resources as far as possible. Some of the country's most distinguished lawyers and teachers had been asked to look into this matter and to report on the possibility of closer co-ordination between the universities and professional bodies and on further provision for advanced research.

The questions of the Long Vacation and the circuit system were not being lost sight of, but he would remind the critics that it was not possible to legislate in advance of public opinion. He was not complaining of the critics: he was a critic himself, and he hoped that outspoken criticisms would continue. It was, however, one thing to criticise and another to create.

His Majesty's Judges.

The Lord Mayor, proposing the health of "His Majesty's Judges," welcomed the return of the Lord Chief Justice to his duties, and congratulated the new members of the Bench and wished them long life and good health. The name of Pollock had been held in high esteem for many generations, both in law and in the City, and the Lord Mayor spoke of the tact and human understanding of the Master of the Rolls, whose name he coupled with the toast. He referred with pride to the conduct of the criminal courts, with which department of the law the City was closely associated, and mentioned the conclusion of a recent trial within six weeks of the alleged offence. He was delighted to see also so many Dominion judges, and claimed that in no country outside the British Empire did those responsible for the administration of justice enjoy a higher reputation for personal rectitude, freedom from undue influence and courage in the administration of their duties.

The Master of the Rolls reminded his audience of that most famous case, *Bardell* v. *Pickwick*, at the conclusion of which Mr. Pickwick had encountered in a side room Messrs. Dodson & Fogg. "Well, Gentlemen," Mr. Pickwick had said, and "Well, Sir," Dodson had replied, for self and partner. In the same way Lord Hanworth accepted the kind words of the Lord Mayor to himself and his family on behalf of all the judges and for self and partner. In losing Mr. Justice Rowlatt, he said, they had lost not only a warm personal friend, but also a man of ripe experience and great erudition and a faithful servant of the State. Welcoming those who had added strength to the bench, he hailed Mr. Justice Lawrence as an illustration of the principle of heredity, which he was not prepared to dispute, particularly when he saw opposite him Alderman Sir George Truscott, past Lord Mayor and son of a Lord Mayor, who doubtless would be succeeded by future Lord Mayors *in saecula saeculorum*. The new procedure rules—which he might, perhaps, call the "Swift Rules"—were giving satisfaction, and he was very glad that they laid further responsibility on the solicitors, thus recognising their great position as officers of the court. The public were apt to see long-drawn out and expensive trials and to form the mistaken idea that these were typical. If the profession could remove some of these prejudices they would have done something, and it was right that they should do it. There was a general desire throughout the world to make war impossible and to settle disputes by a system of law and arbitration between nations, and it would be a great wrong if those who professed and called themselves lawyers did not take their part in furthering this great advance.

The Profession of the Law.

Sir Robert Horne, proposing this toast, likened himself to one proposing the health of a wife whom he still loved, but from whom he had been long divorced. During the war they had become estranged, the sad story had gone on, the legal spouse had bestowed her favours on others, and in the end he had given her grounds for divorce by flirting with a Government Office. In America, however, where they knew much more about these things, it was said that the happiest unions were those based on re-marriage after divorce, so that perhaps he might look forward to felicity of this kind. As an old lawyer he recognised that the profession was very much misunderstood, and he had come to the conclusion that this was because, while the successful litigant never ascribed the result to the law or his lawyer, the unsuccessful one took a most sinister view of the law. If, as had been suggested, the law was "a hass," he ventured to submit that it was a Balaam's ass, a very wise and sound guide to erring humanity. British justice was the admiration of the civilised world.

Sir Boyd Merriman, in reply, said that Sir Robert Horne had at one time tried to be a philosopher, but cheerfulness would keep breaking in and he had become a lawyer. He quoted an account of bear-baiting on the occasion of Queen Elizabeth's visit to Kenilworth, and said that the sport had been established south of the Thames, but when the citizens had found it inconvenient to cross the river a commodious bear-garden had been opened in a magnificent building near Temple Bar. The queues in the Strand testified to the continued popularity of the sport, but now a rival entertainment had been set up in another part of the building and was likely to diminish the number of bears baited *per diem*.

Mr. Charles E. Barry, President of The Law Society, claimed the Western Circuit as the best of all circuits and one from which nearly all the judges had been chosen of late. The new arrangement for solicitors pressed pretty hardly on some of the younger men, but they felt that it was the right thing to do. A great deal was heard of the defaulting solicitor, but he existed to an infinitesimal extent; nevertheless, The Law Society had decided to apply to Parliament for a Bill to give it greater powers to deal with him.

The toast "The Court of Aldermen and the Sheriffs" was proposed by Lord Blanesburgh and answered by Sir George Truscott and Mr. Alderman and Sheriff Greenaway. Lord Macmillan proposed the final toast "The Lord Mayor and the Lady Mayoress."

Among those present were Viscount Sankey, G.B.E., the Lord Chancellor, Miss Sankey, Lord Hanworth, K.B.E., the Master of the Rolls, the Lady Hanworth, Lord Atkin, the Hon. Elizabeth Atkin, Lord Blanesburgh, G.B.E., Treasurer of Lincoln's Inn, Lord Darling, the Hon. Diana Darling, Lord Greenwood, the Lady Greenwood, Lord Macmillan, the Lady Macmillan, Lord Tomlin, the Lady Tomlin, Lord Wrenbury, the Lady Wrenbury, Lord Wright, the Lady Wright, Lord Justice Greer, Lady Greer, Lord Justice Lawrence, Lady Lawrence, Lord Justice Romer, The Hon. Lady Romer, Lord Justice Scrutton, Lady Scrutton, Colonel and Alderman Lord Marshall of Chipstead, K.C.V.O., LL.D., the Right Hon. Mr. Justice Avory, the Right Hon. Mr. Justice Bateson, the Hon. Mr. Justice Bennett, Lady Bennett, the Hon. Mr. Justice Branson, Lady Branson, the Hon. Mr. Justice Clauson, C.B.E., Lady Clauson, the Hon. Mr. Justice Eve, Lady Eve, the Hon. Mr. Justice Hawke, Lady Hawke, the Hon. Mr. Justice Horridge, Lady Horridge, the Hon. Mr. Justice Humphreys, Lady Humphreys, J.P., the Hon. Mr. Justice Lawrence, D.S.O., the Hon. Lady (Geoffrey) Lawrence, the Hon. Mr. Justice Luxmoore, Lady Luxmoore, the Hon. Mr. Justice MacKinnon, Lady MacKinnon, the Hon. Mr. Justice Macnaghten, K.B.E., the Hon. Lady Macnaghten, the Hon. Mr. Justice Maugham, Lady Maugham, the Hon. Mr. Justice du Parcq, the Hon. Mr. Justice Roche, Lady Roche, the Hon. Mr. Justice Swift, the Hon. Mr. Justice Talbot, Lady Talbot, the Right Hon. Sir Robert Horne, G.B.E., K.C., M.P., the Right Hon. Sir Leslie Scott, K.C., Sir Lancelot Elphinstone, K.C., Chief Justice, Federated Malay States, Lady Elphinstone, Alderman Lord Ebbisham, G.B.E., the Lady Ebbisham, Alderman Sir Charles Batho, Bt., Lady Batho, Alderman Sir Alfred Bower, Bt., Lady Bower, Colonel and Alderman Sir Vansittart Bowater, Bt., M.P., Lady Bowater, Alderman Sir W. Phené Neal, Bt., Lady Neal, Alderman Sir Kynaston Studd, Bt., O.B.E., LL.D., Lady Studd, Alderman Sir George Wyatt Truscott, Bt., Deputy Sir Henry Dixon Kimber, Bt., M.A., Deputy Sir Francis Green, Bt., Lady Green, Sir William Leese, Bt., J.P., Lady Leese, Alderman Sir William and Lady Coxen, Alderman Sir Stephen Killik, Alderman Sir Percy and Lady Vincent, Sir Herbert Cunliffe, K.C., Chairman of the General Council of the Bar, Sir Henry Dickens, K.C., Common Serjeant, Lady Dickens, Sir Charles Griffin, K.C., Chief Justice, Uganda, Lady Griffin, Sir Patrick Hastings, K.C., Lady Hastings, the Right Hon. Sir William Jowitt, K.C., Lady Jowitt, Sir Boyd Merriman, O.B.E., K.C., M.P., Solicitor-General, Lady Merriman, M.B.E., Sir Ernest Wild, K.C., the Recorder of London, Lady Wild, Sir Ernest Benn, Bt., O.B.E., High Sheriff of the County of London, Lady Benn, Sir Percival and Lady Clarke, Sir Robert Dibdin, Past President of The Law Society, Miss Adela Dibdin, Sir Harry Foster, ex-Sheriff, Lady Foster, the Hon. Sir Shadi Lal, Chief Justice, Punjab Court, Sir Charles Neish, K.B.E., C.B., Registrar of the Privy Council, Lady Neish, Sir John Pakeman, C.B.E., Lt.-Col. Sir Hugh Turnbull, K.B.E., J.P., Commissioner of the City Police, Sir Herbert Wilberforce, Deputy-Chairman of the County of London Sessions, Lady Wilberforce, the Hon. Sir Courthope Wilson, Vice-Chancellor of the County Palatine of Lancaster and Treasurer of Gray's Inn, Lady Wilson, Mr. Justice G. P. Boys, Allahabad, Mr. Justice H. D. Cornish, Mr. Justice A. J. Curgenven, Madras, Mr. Justice A. W. Ewort, Patna, Mr. Justice and Mrs. Fisher, Ontario, Mr. Justice S. K. Ghose, Calcutta, Mr. Justice J. F. Graham, Calcutta, Mr. Justice R. W. L. Grant, Ceylon, Mr. Justice H. I. Lloyd, O.B.E., M.C., Iraq, Mr. Justice L. M. Maartensz, Ceylon, Mr. Justice Masten, Ontario, Miss Masten, Mr. Justice W. P. Michelin, Gold Coast, Mr. Justice J. Pritchard, Iraq, Mr. Justice Haythorne Reed, Nyassaland, Mr. Justice P. J. Sproule, Senior Puisne Judge, Straits Settlements, Mrs Sproule, Mr. Alderman Sheriff and Mrs. Greenaway, Mr. Alderman and Mrs. Jacobs, Lt.-Col. and Alderman J. D. Laurie, Mr. Alderman and Mrs. Pollitzer, His Honour Judge Holman Gregory, K.C., Capt. M. H. Anderson, C.B.E., K.C., Chief Justice, Fiji, Mr. F. T. Barrington-Ward, K.C., Metropolitan Magistrate, Mrs. Barrington-Ward, Mr. Stuart Bevan, K.C., Mrs. Bevan, Mr. Norman Birkett, K.C., Mrs. Birkett, Mr. Bernard Campion, K.C., Metropolitan Magistrate, Mrs. Bernard Campion, Mr. Charles Doughty, B.C.L., K.C., Mrs. C. J. A. Doughty, Mr. Raymond Needham, K.C., Mr. Cecil Whiteley, K.C., K.L., Chairman of the County of London Sessions, Mrs. Whiteley, Mr. Charles E. Barry, President of The Law Society, Mr. Deputy and Mrs. Bennett, Mr. H. C. A. Bingley, Metropolitan Magistrate, Mr. W. T. Boston, Common Cryer and Serjeant-at-Arms, Mr. L. C. Bowker, O.B.E., M.C., Legal Secretary to the Law Officers of the Crown, Mr. H. G. Bushe, C.M.G., Colonial Office, Mr. Deputy Champness, Mr. E. R. Cook, C.B.E., Secretary of The Law Society,

Mrs. Cook, Mr. W. P. Davies, The Mayor of Hammersmith, Mr. W. Lawson Dell, Registrar of the Mayor's and City of London Court, Mr. W. H. Earle, Secondary, Miss Earle, Capt. G. S. Elliston, M.C., M.A., M.P., Lt.-Col. F. H. L. Errington, C.B., D.C.L., Chancellor of the Diocese of London, the Hon. Mrs. Errington, Mr. F. C. Fahy, J.P., The Mayor of Morecombe and Heysham, Mr. Deputy and Mrs. King Farlow, Mr. R. S. Fraser, The Master of the City of London Solicitors' Company, Mr. Deputy Goldney, Mr. John A. Harris, Metropolitan Magistrate, Mr. A. Charles Knight, J.P., F.S.A., Master of the Worshipful Company of Parish Clerks, Mr. Philip Martineau, B.A., Past President of The Law Society, Capt. Derek Massy, City Marshall, Mr. Under-Sheriff Sidney Newton, Mr. W. W. Nops, LL.B., Clerk of the Peace and Clerk of the Central Criminal Court, Mrs. Nops, Mr. W. H. S. Oulton, Metropolitan Magistrate, Miss E. R. Oulton, Mr. A. J. Noel Paterson, Private Secretary to the Lord Chancellor, Mr. A. F. I. Pickford, B.A., the City Solicitor, Capt. F. C. J. Read, F.S.I., City Surveyor, Mrs. Read, Mr. J. B. Sandbach, K.C., Metropolitan Magistrate, Mrs. Sandbach, The Rev. E. St. G. Schomberg, J.P., Mayor of the City of Westminster, Mrs. Schomberg, Mr. Deputy Smith, Mr. Herbert S. Syrett, C.B.E., LL.B., Mrs. Syrett, Mr. Dixon Taylor, Acting City Remembrancer, Mr. J. Bertrand Watson, Metropolitan Magistrate, Mrs. Watson, Mr. Sheriff Wilkinson and Major A. E. Wood.

Rules and Orders.

THE COUNTY COURTS BANKRUPTCY AND COMPANIES JURISDICTION (BOURNEMOUTH AND POOLE) ORDER, 1932.
DATED JULY 1, 1932.

Whereas by the County Court Districts (Miscellaneous No. 2) Order, 1932,(*) which came into operation on the 1st July, 1932, it is ordered that the County Court of Dorsetshire and Hampshire held at Poole and Bournemouth shall be divided into two separate districts and that a Court shall be held in each of the separately constituted districts by the names of the County Court of Dorsetshire held at Poole and the County Court of Hampshire held at Bournemouth, respectively:

And whereas by virtue of the Bankruptcy Act, 1914,(†) and the Companies Act, 1929,(‡) the said Court held at Poole will have jurisdiction in bankruptcy and in proceedings under the Companies Act, 1929, unless an Order is made excluding it from having that jurisdiction:

And whereas it is desirable that the said Court held at Poole should be excluded from having the said jurisdiction, and that for the purposes of that jurisdiction the districts of the County Courts of Dorsetshire held at Poole, Swanage, and Wimborne Minster should be attached to the County Court of Hampshire held at Bournemouth.

Now, therefore, I, John Viscount Sankey, Lord High Chancellor of Great Britain, by virtue of section 96 of the Bankruptcy Act, 1914, section 163 of the Companies Act, 1929, Rule 127 of the Bankruptcy Rules, 1915,(§) and of all other powers enabling me in this behalf, Do hereby order as follows:—

1. The County Court of Dorsetshire held at Poole shall be excluded from having jurisdiction in bankruptcy and in proceedings under the Companies Act, 1929.

2. For the purposes of jurisdiction in bankruptcy and in proceedings under the Companies Act, 1929, the districts of the County Courts of Dorsetshire held at Poole, Swanage and Wimborne Minster shall be attached to the County Court of Hampshire held at Bournemouth.

3. The Bankruptcy and Companies (Winding-Up) Jurisdiction Order, 1920,(‖) is hereby revoked.

4. This Order may be cited as the County Courts Bankruptcy and Companies Jurisdiction (Bournemouth and Poole) Order, 1932, and shall come into operation on the 1st day of July, 1932, and the County Courts (Bankruptcy and Companies Winding-up) Jurisdiction Order, 1899,(¶) as amended, shall have effect as further amended by this Order.

Dated the 1st day of July, 1932.

Sankey, C.

(*) S.R. & O. 1932, No. 490.
(†) 4–5 G. 5, c. 59.
(‡) 19–20 G. 5. c. 23.
(§) S.R. & O. 1914 (No. 1824) I, p. 41.
(‖) S.R. & O. 1920 (No. 908) I, p. 331.
(¶) S.R. & O. Rev. 1904, III, County Court, E., p. 78 (1899, No. 351).

THE SUPREME COURT FEES (WAR LOAN) ORDER, 1932.
DATED JULY 7, 1932.

The Lord Chancellor, the Judges of the Supreme Court, and the Treasury, in pursuance of the powers and authorities vested in them respectively by section 213 of the Supreme Court of Judicature (Consolidation) Act, 1925, (*) section 305 of the Companies Act, 1929,(†) and sections 2 and 3 of the Public Offices Fees Act, 1879(‡), do hereby according as the provisions of the above-mentioned enactments respectively authorise and require them, make, advise, concur in, sanction and consent to, the following Order:—

1. No Court Fees shall be taken on any application to the court for an order directing the Accountant General of the Supreme Court to make a continuance application, or a repayment application, in respect of a holding of Five Per Cent. War Loan standing in the name of the Accountant-General.

2. This exemption applies to the Court Fees prescribed by the Supreme Court Fees Order, 1930,(§) on the sealing of the summons, the making of the order, the filing of an affidavit, or the taking of any other proceeding which relates solely to such an application.

3. This Order does not apply to an application to the Court for an Order with regard to re-investment, whether combined with an Order with regard to repayment or not.

4. In this Order "Continuance application" and "repayment application" have the same meanings as in Part III of the Finance (No. 2) Act, 1931,(‖) which contains provisions as to Five Per Cent. War Loan.

5. This Order may be cited as the Supreme Court Fees (War Loan) Order, 1932.

Dated this 7th day of July, 1932.

Sankey, C. — *Hanworth*, M.R.
Hewart, C.J. — *Merrivale*, P.
Victor Warrender, *A. U. M. Hudson*, } Lords Commissioners of His Majesty's Treasury.

(*) 15–6 G. 5. c. 49.
(†) 19–20 G. 5. c. 23.
(‡) 42–3 V. c. 58.
(§) S.R. & O. 1930 (No. 579) p. 1728.
(‖) 21–2 G. 5. c. 49.

THE COUNTY COURT (NO. 2) RULES, 1932.
DATED JULY 11, 1932.

1. These Rules may be cited as the County Court (No. 2) Rules, 1932, and shall be read and construed with the County Court Rules, 1903,(*) as amended.

An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the County Court Rules, 1903, as amended.

The County Court Rules, 1903, as amended, shall have effect as further amended by these Rules.

2. Order LIII Rule 50 is hereby revoked, except in respect of business done before the 12th day of October, 1932, and the following Rule shall be substituted therefor:

"50.—(1) The total of any items of costs (as distinct from payments) in respect of business done after the 11th day of October, 1932, in any action or matter commenced in or remitted to a County Court or in proceedings under the Workmen's Compensation Act, 1925,(†) shall where costs are payable under Column B or Column C of the higher scale be increased by 25 per centum, and such increase shall be allowed upon any taxation or assessment of costs in respect of any such business as well between party and party as between solicitor and client.

(2) Provided—

(*a*) that this Rule shall not affect any power to direct payment of a fixed or gross sum in respect or in lieu of costs;

(*b*) that where any items of costs are increased under Rule 8 of this Order, or costs are allowed on any scale higher than that which would otherwise be applicable, the increase authorised by this Rule shall not be allowed in respect of such items or in respect of costs allowed on such higher scale, unless the judge otherwise orders.

(3) The increase hereby authorised shall not affect the question whether a bill of costs when taxed is or is not less by one-sixth part than the bill delivered sent or left."

We, the undersigned persons appointed by the Lord Chancellor pursuant to section one hundred and sixty-four of the County Courts Act, 1888,(‡) and section twenty-four of the County Courts Act, 1919,(§) to frame Rules and Orders for regulating the practice of the Court and forms of proceedings therein, having by virtue of the powers vested in us in this behalf framed the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

S. A. Hill Kelly.
T. Mordaunt Snagge.
C. E. Dyer.
H. Bensley Wells.
A. O. Jennings.

Approved by the Rules Committee of the Supreme Court.

Claud Schuster.

I allow these Rules which shall come into force on the 12th day of October, 1932.

Dated the 11th day of July, 1932.

Sankey, C.

(*) S.R. & O. Rev. 1904, III County Court, E., p. 89 (1903, No. 629).
(†) 15–6 G. 5. c. 84.
(‡) 51–2 V. c. 43.
(§) 9–10 G. 5. c. 73.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to confer the dignity of Knighthood upon the undermentioned gentlemen:—

Sir JOSEPH SHERIDAN, Chief Justice of the Tanganyika Territory.

Sir MERVYN LAWRENCE TEW, Chief Justice of Sierra Leone.

The King has been pleased to appoint ERNEST PAKENHAM WALSH, Esq., Indian Civil Service, to be one of the Judges of the High Court of Judicature at Madras, in the place of Mr. Justice David Grierson Waller, Indian Civil Service, who has retired.

The King has been pleased to appoint JOHN WYLIE, Esq., barrister-at-law, to be Recorder of the Borough of Smethwick.

GEORGE DUDLEY COLCLOUGH, Esq., of 24, Austin Friars, E.C.2, has been appointed by The Law Society one of their representatives on the Incorporated Council of Law Reporting for England and Wales in place of Sir Arthur Copson Peake retired.

Mr. L. O. NEED, Town Clerk of Lincoln, is the new Town Clerk of Gloucester. Mr. Need, who is a solicitor, was admitted in 1914.

Mr. T. OLDROYD, Town Clerk of Haslingden, has been appointed Town Clerk of Nuneaton. Mr. Oldroyd was admitted a solicitor in 1924.

Professional Announcement.

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It was erroneously stated at p. 452 of the issue of the 25th June that Mr. W. H. A. Thorne, who recently resigned after completing 41 years' service with the Minehead Urban Council, was admitted a solicitor in 1920. The error arose through a confusion of Mr. Thorne, who was clerk to the council, with his son, Mr. W. H. Allen Thorne, who is a solicitor practising in that town.

COUNTY COUNCILS AND ECONOMY COMMITTEE.

The following members have been appointed by the County Councils' Association to serve on the Economy Committee proposed by the Chancellor of the Exchequer: Sir Percy Jackson (Chairman of the Executive Council of the Association); Sir Edward Holland (Vice-Chairman); and Dr. E. W. Maples (Clerk of the Herefordshire County Council).

NEW OXFORD RECORDER.

Mr. D. Cotes-Preedy, K.C., the new Recorder of Oxford, who was appointed in succession to The Hon. Geoffrey Lawrence upon his elevation to the Bench, was sworn in on the 20th July.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part I.	MR. JUSTICE MAUGHAM. Non-Witness.
M'nd'y July 25	Mr. Blaker	Mr. Andrews	Mr.*More	Mr. Ritchie
Tuesday .. 26	More	Jones	*Ritchie	Andrews
Wednesday 27	Hicks Beach	Ritchie	*Andrews	More
Thursday . 28	Andrews	Blaker	More	Ritchie
Friday 29	Jones	More	*Ritchie	Andrews
Saturday .. 30	Ritchie	Hicks Beach	Andrews	More

	GROUP I. MR. JUSTICE BENNETT. Witness Part II.	MR. JUSTICE CLAUSON. Non-Witness.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part II.	MR. JUSTICE FARWELL. Witness Part I.
M'nd'y July 25	Mr. Andrews	Mr. Hicks Beach	Mr.*Blaker	Mr.*Jones
Tuesday .. 26	*More	Blaker	Jones	*Hicks Beach
Wednesday 27	Ritchie	Jones	*Hicks Beach	*Blaker
Thursday . 28	*Andrews	Hicks Beach	Blaker	*Jones
Friday 29	More	Blaker	*Jones	Hicks Beach
Saturday .. 30	Ritchie	Jones	Hicks Beach	Blaker

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

The LONG VACATION will commence on Monday, the 1st day of August, 1932, and terminate on Tuesday, the 11th day of October, 1932, inclusive.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phone: Temple Bar 1181-2.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 11th August, 1932.

	Middle Price 20 July 1932.	Flat Interest Yield.	†Approximate Yield with redemption
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	106	3 15 6	3 12 8
Consols 2½%	73	3 8 6	—
War Loan 5% 1929-47 Assented	100¼xb	3 10 4	—
War Loan 4½% 1925-45	102½	4 7 10	—
Funding 4% Loan 1960-90	108	3 14 1	3 10 11
Victory 4% Loan (Available for Estate Duty at par) Average life 31 years	106½	3 15 1	3 12 11
Conversion 5% Loan 1944-64	115	4 6 11	3 9 1
Conversion 4½% Loan 1940-44	108½	4 2 11	3 5 5
Conversion 3½% Loan 1961 or after	99	3 10 8	—
Local Loans 3% Stock 1912 or after	86	3 9 9	—
Bank Stock	314	3 16 5	—
India 4½% 1950-55	104	4 6 6	4 3 8
India 3½% 1931 or after	80	4 7 6	—
India 3% 1948 or after	69	4 6 11	—
Sudan 4½% 1939-73	106½	4 4 6	3 7 3
Sudan 4% 1974 Redeemable in part after 1950	106	3 15 6	3 10 11
Transvaal Government 3% Guaranteed 1923-53 Average life 13 years	100	3 0 0	3 0 0
Colonial Securities.			
Canada 3% 1938	95½	3 2 10	3 17 0
*Cape of Good Hope 4% 1916-36	101	3 19 2	—
Cape of Good Hope 3½% 1929-49	95½	3 13 4	3 17 3
Ceylon 5% 1960-70	108	4 12 7	4 9 10
*Commonwealth of Australia 5% 1945-75	100½	4 19 6	4 18 11
Gold Coast 4½% 1956	106	4 4 11	4 1 10
*Jamaica 4½% 1941-71	104	4 6 6	3 19 3
*Natal 4% 1937	101	3 19 2	3 15 0
New South Wales 4½% 1935-45	94½	4 15 3	5 1 8
*New South Wales 5% 1945-65	100½	4 19 6	4 18 11
*New Zealand 4½% 1945	103½	4 6 11	4 2 11
*New Zealand 5% 1946	108½	4 12 2	4 2 9
Nigeria 5% 1950-60	111	4 10 1	4 2 6
*Queensland 5% 1940-60	100½	4 19 6	4 18 5
*South Africa 5% 1945-75	108½	4 12 2	4 2 10
*South Australia 5% 1945-75	100½	4 19 6	4 18 11
*Tasmania 5% 1945-75	100½	4 19 6	4 18 11
*Victoria 5% 1945-75	100½	4 19 6	4 18 11
*West Australia 5% 1945-75	100½	4 19 6	4 18 11
Corporation Stocks.			
Birmingham 3% 1947 or after	84	3 11 5	—
*Birmingham 5% 1946-56	113	4 8 6	3 15 8
*Cardiff 5% 1945-65	108½	4 12 2	4 2 10
Croydon 3% 1940-60	92½	3 4 10	3 8 4
*Hastings 5% 1947-67	112	4 9 3	3 18 6
Hull 3½% 1925-55	91xd	3 16 11	4 2 4
Liverpool 3½% Redeemable by agreement with holders or by purchase	93½	3 14 10	—
London County 2½% Consolidated Stock after 1920 at option of Corporation	70½	3 10 11	—
London County 3% Consolidated Stock after 1920 at option of Corporation	85	3 10 7	—
Manchester 3% 1941 or after	82½	3 12 9	—
Metropolitan Water Board 3% "A" 1963-2003	85½	3 10 2	3 11 3
Do. do. 3% "B" 1934-2003	87	3 9 0	3 10 0
Middlesex C.C. 3½% 1927-47	97	3 12 2	3 15 3
Do. do. 4½% 1950-70	110	4 1 10	3 14 6
Nottingham 3% Irredeemable	84	3 11 5	—
*Stockton 5% 1946-66	111	4 10 1	3 19 5
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	97	4 2 6	—
Gt. Western Rly. 5% Rent Charge	108½	4 12 2	—
Gt. Western Rly. 5% Preference	52½	9 10 6	—
L. Mid. & Scot. Rly. 4% Debenture	87½	4 11 5	—
L. Mid. & Scot. Rly. 4% Guaranteed	68xd	5 17 8	—
L. Mid. & Scot. Rly. 4% Preference	26xd	15 7 9	—
Southern Rly. 4% Debenture	93	4 6 0	—
Southern Rly. 5% Guaranteed	99½	5 0 6	—
Southern Rly. 5% Preference	42½	11 15 4	—
‡L. & N.E. Rly. 4% Debenture	79	5 1 3	—
‡L. & N.E. Rly. 4% 1st Guaranteed	53½	7 9 6	—
‡L. & N.E. Rly. 4% 1st Preference	17½	22 17 0	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

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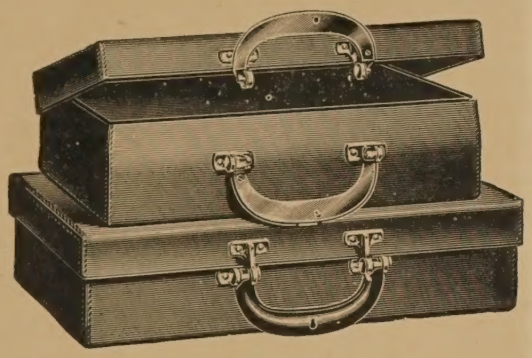

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By **A. H. WITHERS,** *Barrister-at-Law.*

This article, which appeared originally in "The Solicitors Journal" in April, 1932, is an attempt to summarise in a convenient form the points which have been decided, and the difficulties known to exist, on the transitional provisions, relative to undivided shares in land, contained in the Law of Property Act, 1925, First Schedule, Part IV.

For the convenience of reference, a Table of Cases referred to has been added, and the text of Part IV, as amended by the Law of Property (Amendment) Act, 1926, has been included as an Appendix.

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ARTHUR WILLIAMS, of Perth, Western Australia, son of late Revd. Preston Williams and Harriet Williams, or his issue, should COMMUNICATE with Messrs. R. C. Bartlett & Co., Solicitors, 44, Bedford-row, W.C.1, when they will hear of something to their advantage.

PHILLIPS.—Will MAUD PHILLIPS, the daughter of the late William Thomas and Blanche Julian Phillips, believed to be married and living in America, COMMUNICATE immediately with her grandmother's (Pavey) executor, Alfred Corner, 16, Staverton-road, London, N.W.2?

Printed by THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., at "Oyez" House, Fetter Lane, London, E.C.4, and Published at 29, Breams Buildings, E.C.4 ('Phone: Holborn 1853); Agents—The United States and Canada The Carswell Co., Ltd., 145-149, Adelaide Street West, Toronto 2, Canada; India: Higginbothams, Publishers, Mount Road, Madras; Australia and New Zealand: "The Times," 255a, George Street, Sydney, N.S.W. Saturday, July 23rd, 1932.